

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863

www.coastal.ca.gov

W3a

CENTRAL COAST DISTRICT (SANTA CRUZ) DEPUTY DIRECTOR'S REPORT

*For the
August Meeting of the California Coastal Commission*

MEMORANDUM

Date: August 10, 2005

TO: Commissioners and Interested Parties
FROM: Charles Lester, Central Coast District Deputy Director
SUBJECT: *Deputy Director's Report*

Following is a listing for the waivers, emergency permits, immaterial amendments and extensions issued by the Central Coast District Office for the August 10, 2005 Coastal Commission hearing. Copies of the applicable items are attached for your review. Each item includes a listing of the applicants involved, a description of the proposed development, and a project location.

Pursuant to the Commission's direction and adopted procedures, appropriate notice materials were sent to all applicants for posting at the project site. Additionally, these items have been posted at the District office and are available for public review and comment.

This report may also contain additional correspondence and/or any additional staff memorandum concerning the items to be heard on today's agenda for the Central Coast District.

DE MINIMIS WAIVERS

3-05-034-W Marina Coast Water District, Attn: John Zeller, Associate Engineer (Marina, Monterey County)

IMMATERIAL AMENDMENTS

3-84-139-A2 Pacific Hotel Management, L L C, Attn: Clement Chen, I I I; The Cannery Row Company, Attn: Frank Donangelo (Monterey, Monterey County)

EXTENSION - IMMATERIAL

A-3-SCO-00-033-E1 Brian Hinman (North Santa Cruz County, Santa Cruz County)

<i>TOTAL OF 3 ITEMS</i>

DETAIL OF ATTACHED MATERIALS

REPORT OF DE MINIMIS WAIVERS

The Executive Director has determined that the following developments do not require a coastal development permit pursuant to Section 30624.7 of the California Coastal Act of 1976.

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
3-05-034-W Marina Coast Water District, Attn: John Zeller, Associate Engineer	Installation of four (4) sanitary sewer manholes, approximately 130 ft of 30 inch PVC sanitary sewer pipe and one fiberglass reinforced manhole with an integrated Parshall flume to replace existing device that measures wastewater flow from the Fort Ord Community before in connects into the MRWPCA's trunk sewer at the site. Proposed infrastructure location will allow for future demolition of the WWTP's abandoned structures facilitating the eventual intended recreational use of the land by State Parks.	770 Handord (lot 12), Pismo Beach (San Luis Obispo County)

REPORT OF IMMATERIAL AMENDMENTS

The Executive Director has determined that there are no changes in circumstances affecting the conformity of the subject development with the California Coastal Act of 1976. No objections to this determination have been received at this office. Therefore, the Executive Director grants the requested Immaterial Amendment, subject to the same conditions, if any, approved by the Commission.

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
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3-84-139-A2 Pacific Hotel Management, L L C, Attn: Clement Chen, I I I The Cannery Row Company, Attn: Frank Donangelo	1) revise the exterior facades of each building to include a mixture of horizontal siding, brick, and corrugated metal (instead of stucco and stone cladding); 2) provide approximately 340 parking spaces (instead of the approved 273 parking spaces) through the use of mechanical lifts (which will reduce the project's parking deficit from 87 spaces to approximately 20 spaces); 3) revise the automobile turnaround area so that it does not cut underneath Building A and so it provides room for two cars to pass side by side; 4) compress the automobile turnaround area closer to Cannery Row and reduce the turnaround area from 3,711 sq. ft. to approximately 3,557 sq. ft.; 5) provide for a public access connection between Building A and Doc Ricketts' Lab that connects to the bayside lateral access (this access will be open 8:00 a.m. until one hour after sunset daily, consistent with the bayside lateral access); 6) widen the bayside lateral access by 6 feet by reducing the footprint of Building A; 7) enlarge the courtyard of Building A by making it wider and deeper and by reducing the footprint of Building A, which will provide approximately 101 aquare feet of additional public access; 8) add a 10' wide pedestrian arcade at the eastern face of the hotel to provide additional public access from Cannery Row to the Plaza del Mar; 9) Add a 6' wide pedestrian access path from Cannery Row to the Plaza del Mar that is located between the hotel and the turnaround area; 10) add five new coastal access signs at various point along Building A and revise one public access sign located at the entrance to the walkway between Building A and Doc Ricketts' Lab (to state that this provides a connection to the bayside lateral access); 11) revise the outline of the outer edge of the bayside lateral access from a "stepping in and out" design to a "straight edge" design, with no increase in over-water coverage of this access; 12) revise the structural support of the lateral bayside access and overlook area to include 16 new piers and footings, instead of a cantilevered design; 13) modify the approved project to include a transfer of the McAbee Beach parcel (APN001-021-003) from the Cannery Row Company to the City of Monterey and delete Special Condition #4c; 14) modify the approved project to include a transfer of the City-owned parcel (APN 001-011-007), which will provide for the automobile turnaround area and public access, from the City to the Cannery Row Company and delete Special Condition #4e; 15) apply a Generic Deed Restriction to the conditions of approval and delete Special Conditions #4a and #4b and modify the "waiver of liability" condition (to simplify the deed restriction process)	750 Cannery Row, Monterey (Monterey County)
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REPORT OF EXTENSION - IMMATERIAL

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
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CENTRAL COAST DISTRICT DEPUTY DIRECTOR'S REPORT CONTINUED

A-3-SCO-00-033-E1 Brian Hinman	Request to extend the expiration date of CDP A-3-SCO-00-033 by one year to September 10, 2006. CDP A-3-SCO-00-033 provides for construction of a single family residence with detached accessory structure, pool, courtyard, and driveway.	Approximately ¾ of a mile inland of State Highway One at the Santa Cruz/San Mateo County border adjacent to Año Nuevo State Reserve, North Santa Cruz County (Santa Cruz County)
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**NOTICE OF COASTAL DEVELOPMENT PERMIT WAIVER**

DATE: August 3, 2005
TO: Marina Coast Water District, Attn: John Zeller, Associate Engineer
FROM: Peter M. Douglas, Executive Director *PM 8/3/05*
SUBJECT: Waiver of Coastal Development Permit Requirement:
Waiver De Minimis Number 3-05-034-W

Based on project plans and information submitted by the applicant(s) named below regarding the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit, pursuant to Title 14, Section 13238 of the California Code of Regulations.

APPLICANT: Marina Coast Water District, Attn: John Zeller, Associate Engineer

LOCATION: Beach Range Road & 8th (1/4 mile north), Marina (Monterey County)

DESCRIPTION: Installation of four (4) sanitary sewer manholes, approximately 130 ft of 30 inch PVC sanitary sewer pipe and one fiberglass reinforced manhole with an integrated Parshall flume to replace existing device that measures wastewater flow from the Fort Ord Community before in connects into the MRWPCA's trunk sewer at the site. Proposed infrastructure location will allow for future demolition of the WWTP's abandoned structures facilitating the eventual intended recreational use of the land by State Parks.

RATIONALE: The proposed development is located entirely within the existing boundaries of the former Fort Ord Wastewater Treatment Plant and includes mitigation measures to avoid disruption of any sensitive habitat areas as well as erosion control and water quality best management practices that will be implemented during construction to protect water quality. The proposed project is consistent with the policies of Chapter 3 of the Coastal Act and will not otherwise adversely impact coastal views or public access to the shoreline.

IMPORTANT: This waiver is not valid unless the site has been posted AND until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission at the meeting of Wednesday, August 10, 2005, in Costa Mesa. If four Commissioners object to this waiver, a coastal development permit will be required.

Persons wishing to object to or having questions regarding the issuance of a coastal permit waiver for this project should contact the Commission office at the above address or phone number prior to the Commission meeting date.

Sincerely,
PETER M. DOUGLAS
Executive Director

By: RICK HYMAN
District Chief Planner

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NOTICE OF PROPOSED PERMIT AMENDMENT

TO All Interested Parties
FROM Peter Douglas, Executive Director *JD 7/29/05*
DATE July 29, 2005
SUBJECT **Permit No: 3-84-139-A2**
Granted to: Pacific Hotel Management, LLC, Attn: Clement Chen III;

Original and Amended Description:

for **Hotel development amended to 208 rooms (originally 212 rooms); 10,200 sq. ft of meeting area (originally 1,450 sq. ft. of meeting area); 18,581 sq. ft. of retail space (originally 13,920 sq. ft. of retail space); 95 restaurant seats (originally 200 restaurant seats) 273 parking stalls (originally 263 parking stalls).**

at **750 Cannery Row, Monterey (Monterey County)**

The Executive Director of the Coastal Commission has reviewed a proposed amendment to the above referenced permit, which would result in the following changes:

1) revise the exterior facades of each building to include a mixture of horizontal siding, brick, and corrugated metal (instead of stucco and stone cladding); 2) provide 340 parking spaces (instead of the approved 273 parking spaces) through the use of mechanical lifts (which will reduce the project's parking deficit from 87 spaces to 20 spaces); 3) update access conditions as necessary to include the following changes: a) revise the automobile turnaround area so that it does not cut underneath Building A and so it provides room for two cars to pass side by side; b) compress the automobile turnaround area closer to Cannery Row and reduce the turnaround area from 3,711 sq. ft. to 3,557 sq. ft.; c) provide for a public access connection between Building A and Doc Ricketts' Lab that connects to the bayside lateral access (this access will be open 8:00 a.m. until one hour after sunset daily, consistent with the bayside lateral access); d) widen the bayside lateral access by 6 feet by reducing the footprint of Building A; e) enlarge the courtyard of Building A by making it wider and deeper and by reducing the footprint of Building A, which will provide approximately 101 square feet of additional public access; f) add a 10' wide pedestrian arcade at the eastern face of the hotel to provide additional public access from Cannery Row to the Plaza del Mar (this access is to be opened when the Plaza del Mar is open); g) Add a 6' wide pedestrian access path from Cannery Row to the Plaza del Mar that is located between the hotel and the turnaround area (this access is to be open when the Plaza del Mar is open); h) add five new coastal access signs at various points along Building A and revise one public access sign located at the entrance to the walkway between Building A and Doc Ricketts' Lab; i) revise the outline of the outer edge of the bayside lateral access from a "stepping in and out" design to a "straight edge" design, with no increase in over-water coverage of this access; 4) revise the structural support of the lateral bayside access and overlook area to include 16 new piers and footings, instead of a cantilevered design; 5) modify the approved project to include a transfer of the McAbee Beach parcel (APN 001-021-003) from the Cannery Row Company to the City of Monterey and delete Special Condition #4c; 6) modify the approved project to include a transfer of the City-owned parcel (APN 001-011-007), which will provide for the automobile turnaround area and public access, from the City to the Cannery Row Company and delete Special Condition #4e; 7) apply a Generic Deed Restriction to the conditions of approval and delete Special Conditions #4a and #4b and modify the "waiver of liability" condition (to simplify the deed restriction process). ****New Special Condition #9 is attached****

FINDING

Pursuant to Title 14, Section 13166(b) of the California Code of Regulations this amendment is considered to be IMMATERIAL and the permit will be amended accordingly if no written objections are received within ten working days of the date of this notice. If an objection is received, the amendment must be reported to the Commission at the next regularly scheduled meeting. This amendment has been considered IMMATERIAL for the following reasons:

The requested amendment is not a material change to the permit because: 1) the façade changes do not alter the size and/or scope of the approved buildings and are compatible with the character of Cannery Row; 2) the additional parking will be accomplished through the use of mechanical lifts and will not increase the size of the approved parking garage; 3) the amendment includes a number of changes that provide additional public access opportunities along Cannery Row; 4) the imposition of a generic deed restriction will greatly simplify the deed restriction process.

Regarding the new piers/footings, a biological survey of the intertidal area where the new piers/footings will be placed found no protected or sensitive species. In addition, the new piers will provide a safer, stronger structure than one that is cantilevered. Also, the revised project description includes appropriate best management practices to protect water quality during construction. Additionally, the project is consistent with the certified Cannery Row Land Use Plan regarding guidance for over-water structures. Finally, the applicant supplied a letter that states that they will not undertake any construction until receiving all necessary permits and/or authorizations from the Army Corps of Engineers and the Monterey Bay National Marine Sanctuary;

If you have any questions about the proposal or wish to register an objection, please contact Susan Craig at the Central Coast area office.

NEW SPECIAL CONDITION #9 (GENERIC DEED RESTRICTION)

9. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,

the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the applicants have executed and recorded against the parcel(s) governed by this permit a lease and deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject properties, subject to terms and conditions that restrict the use and enjoyment of these properties; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Properties. The lease and deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The lease and deed restriction shall also indicate that, in the event of an extinguishment or termination of the lease and deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject properties so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject properties.

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MEMORANDUM

Date: August 8, 2005
To: Commissioners and Interested Parties
From: Susan Craig, Coastal Planner
Subject: **Revised Conditions for CDP 3-84-139-A1 (Pursuant to Immaterial Amendment 3-84-139-A2)**

The attached document reflects the updated conditions to CDP 3-84-139-A1 pursuant to immaterial amendment 3-84-139-A2.

REVISED SPECIAL CONDITIONS FOR CDP 3-84-139-A1 (PURSUANT TO IMMATERIAL AMENDMENT 3-84-139-A2)

1. FUTURE DEVELOPMENT ~~DEED RESTRICTION~~

This permit is only for the development described in coastal development permit No. 3-84-139-A1, as amended and supplemented in coastal development permit 3-84-139-A2. Except as provided in Public Resources Code section 30610 and applicable regulations, any future development as defined in PRC section 30106, including but not limited to a change in the density or intensity of use land, shall require an amendment to Permit No. 3-84-139-A1 from the California Coastal Commission or shall require an additional coastal development permit from the California Coastal Commission or from the applicable certified local government.

2. REVISED PLANS

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittees shall submit to the Executive Director for review and approval revised building plans of buildings A, ~~and B,~~ and C. These plans shall include:

- a. no further seaward encroachment of building A than that shown in the submitted plans dated November 22, 2000 and prepared by the Ratcliff Architects;
- b. detailed floor plans which specify all the various uses of the hotel (meeting room space, guest rooms, restaurant space, retail space, lobby space, service areas, kitchen, etc.).
- c. 16 new piers and footings along the outer edge of the boardwalk in Building A and the observation point of the Plaza del Mar;
- d. Bayside lateral access with a "straight edge" design (instead of a "stepping in and out" design).
- e. Mechanical lifts in Building C, for a total of approximately 340 parking spaces.

PRIOR TO INSTALLATION OF LANDSCAPING AND COMPLETION OF THE HOTEL EXTERIOR, the permittees shall submit the following items to the Executive Director for review and approval:

- ~~e.f.~~ color samples of exterior building materials;
- ~~d.g.~~ a landscaping plan for the Plaza del Mar (AI in Exhibit 13) which specifies the color and type of hardscape materials, different color/materials for path access, and the use of drought-tolerant plants and drip irrigation;

3. PUBLIC ACCESS

WITHIN 120 DAYS OF ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittees shall submit to the Executive Director for review and approval an access plan that includes:

- a. a site plan showing the Plaza del Mar and improvements, including benches, waste receptacles, fountains or sculptures (if any), and the configuration of the vehicular entry (AI in Exhibit 13);
- b. a site plan showing path access from Cannery Row through the Plaza del Mar to the bayside; ~~two~~ three paths should be shown – ~~one from the southern portion~~ a 6-foot-wide path directly between the vehicle turnaround area and of the Plaza del Mar, a 10-foot-wide pedestrian arcade at the eastern face of the hotel, and a 6-foot-wide pedestrian access path from Cannery Row between the hotel and one adjacent to but outside of the vehicle turnaround area (Exhibit 13).
- c. a site plan showing the lateral access along the bayside of Building A and vertical access through the Doc Ricketts' alleyway on the west side of Building A (AII, AIII, and BII in Exhibit 13). The vertical access on the west side of Building A shall connect to the lateral access on the bayside of the hotel. The lateral access shall be a minimum width of 14 feet; and the Doc Ricketts' alleyway shall be a minimum of 86 feet in width, excluding the portion of the vertical access labeled AIII in Exhibit 13, which shall be a maximum of 6 feet in width, and BII which shall be from 6 to 8 feet in width. The site plan shall detail improvements, including benches and waste receptacles.
- d. a program for public use of the courtyard (BI in Exhibit 13) that provides a minimum of public access over 10% of the courtyard, or approximately ~~300~~ 401 sq. ft. This access shall be adjacent to the lateral bayside access and shall include at least two benches;
- e. an interpretive program for the Doc Ricketts' portion of the vertical access alleyway on the west side of Building A (AIII in Exhibit 13).
- f. ~~a~~ site plan showing the 15-foot wide area adjacent to the hotel restaurant and extending onto the public parcel, to be used for outdoor restaurant seating (see Exhibit 13). The site plan shall detail improvements, including tables and waste receptacles. At least 20% of the tables in this area shall be reserved for general public use, without the need to purchase food or beverages from the hotel.
- g. an automobile turnaround area (consisting of approximately 3,557 sq. ft.) that does not cut underneath Building A and that provides room for two cars to pass side by side, as well as clearance for larger vehicles. The access plan shall ensure that there is no parking in the vehicular turnaround area (Exhibit 13).

WITHIN 120 DAYS OF ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittees shall submit to the Executive Director for review and approval a signing plan that includes:

- ~~g.~~ h. signs stating that the public may access the Plaza del Mar between 8:00 a.m. and 10:00 p.m. daily; signs stating that the public may access the courtyard, ~~and the bayside lateral access, and the west side vertical access~~ between 8:00 a.m. and

one hour after sunset daily (McAbee Beach hours of access will be determined by the City of Monterey Parks and Recreation Division).

~~h.i.~~ public access signs which conform to the City of Monterey's signage program.

~~i.j.~~ public access signs located at the following locations (at a minimum)(see Exhibit 13):

1. Plaza del Mar: where each path meets the sidewalk on Cannery Row;
2. between the southwest corner of Bubba Gump's Restaurant and the upper portion of the vehicular turnaround area;
3. at the entrance to the observation point;
4. at each ~~the east~~ end of the bayside lateral access;
5. on either side of the Cannery Row sidewalk opening to the covered pedestrian arcade, as well as two signs inside the pedestrian arcade to provide guidance to the observation point and the bayside lateral access;
6. the courtyard;
7. at the entrance to the Doc Ricketts' alleyway, from Cannery Row;
8. at the street entrance to the McAbee Beach parcel (Exhibit 14).
9. adjacent to the tables dedicated to general public use and located on the public parcel adjacent to the restaurant, as described in condition 3f.

PRIOR TO OCCUPANCY OF THE HOTEL:

~~j.k.~~ the permittees shall, in cooperation with the City of Monterey, submit to the Executive Director for review and approval a site plan showing the McAbee Beach access and improvements (Exhibit 12).

~~k.l.~~ all access improvements shown on the approved access plan for the hotel and the Plaza del Mar sites shall be constructed and available for public use.

~~l.m.~~ the permittees shall, in cooperation with the City, place public access signs (which conform to the City of Monterey's signage program) at McAbee Beach. Public improvements to McAbee Beach shall be completed consistent with the City of Monterey Parks and Recreation Division's schedule.

4. DEED RESTRICTIONS/OFFERS TO DEDICATE WAIVER OF LIABILITY

~~a. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT~~
~~the Cannery Row Company (Landowner) and the Monterey Peninsula Hotel LLC (Lessee) shall submit, for the Executive Director's review and approval, a deed and lease restriction which provides for lateral public access and access~~

~~to Doe Ricketts' alleyway adjacent to Building "A" as described in the approved Public Access Plan and shown on Exhibit 13 (AII and AIII). The document shall run with the land, binding all successors and assigns and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed and lease restriction shall not be removed or changed without a Commission amendment to this coastal development permit.~~

~~b. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,~~ the Cannery Row Company shall submit, for the Executive Director's review and approval, a deed restriction which provides for lateral and vertical public access of the Plaza in front of Bubba Gump's Restaurant as described in the approved Public Access Plan and shown on Exhibit 13. The document shall run with the land, binding all successors and assigns and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. The recorded document shall include legal descriptions of both the entire project site and the area of dedication. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

~~c. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,~~ the Cannery Row Company shall execute and record a document, in a form and content acceptable to the Executive Director, of an offer to dedicate to the City of Monterey or other public agency or non-profit corporation approved by the Executive Director, a fee interest in the McAbee beach parcel (Exhibit 12), as described above in the access plan. The area of dedication shall consist of the entirety of parcel 001-021-003. The offer shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed and shall provide for public access, passive recreational use, and the installation of public amenities consistent with the approved Public Access Plan described in Condition 3. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the offer, to interfere with any rights of public access acquired through use of the property which may exist on the property. The offer shall run with the land in favor of the State of California, binding all successors and assigns and shall be irrevocable for a period of 21 years, such period running from the date of the recording.

~~d. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT~~ By acceptance of this permit, the Cannery Row Company (Landowner) and the Monterey Peninsula Hotel LLC Cannery Row Hotel Development Venture L.P. (Lessee) shall execute and record a deed and lease restriction, in a form and content acceptable to the Executive Director, which shall provide that the applicants acknowledge and agree i) that the site may be subject to hazards from waves, storm waves, and erosion; (ii) to assume the risks to the applicants and the property that is the subject of this permitted development; (iii)

to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards. ~~The deed and lease restriction shall include a legal description of the applicants' entire parcel. The deed and lease restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed and lease restriction shall not be removed or changed without a Commission amendment to this coastal development permit.~~

~~**e. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the City of Monterey shall submit for Executive Director review and approval a copy of the lease for city-owned parcel #001-011-007 that limits use of the parcel to public access, access improvements, passive recreation, outdoor restaurant use as described in condition 3f, and vehicular access to the hotel.~~

5. WATER

- a. **SIX MONTHS PRIOR TO INITIAL OCCUPANCY OF THE HOTEL,** the applicants will specify the types of water-saving devices and fixtures that will be used in the guest rooms, laundry facilities, kitchen facilities, fountains, etc.
- b. Potable water use for the entire project is limited to a maximum of 29.072 acre feet per year based on the water allocation permit granted by the Monterey Peninsula Water Management District. Beginning on the date the hotel opens for business, the permittees shall, within 10 days of receipt of each water bill, forward a copy to the Central Coast District Office of the Coastal Commission and shall also provide a summary of annual water use (January 1 through December 31) within 15 days of the end of each annual reporting period (January 15). Applicants shall submit water bills and annual summaries of water use for a period of five years after initial occupancy of the hotel. If water use exceeds the 29.072 acre-foot allocation in any annual reporting period, the permittees shall, within 30 days of the end of the reporting period, submit a plan for reducing water use to that allocated or provide for an additional source of water in an amount equivalent to the difference between actual water use and the 29.072 acre-foot allocation. This plan shall be submitted for Commission review.

6. **TRAFFIC**

a. **BY OCTOBER 15TH OF THE FIRST TWO YEARS DURING WHICH THE HOTEL HAS BEEN IN OPERATION FROM THE MEMORIAL DAY WEEKEND THROUGH THE LABOR DAY WEEKEND**, the permittees shall submit to the Executive Director for review the results of monitoring regarding effectiveness of the WAVE ridership, and the results of a traffic study which details the actual traffic produced by the hotel during the peak weekday afternoon hour and the peak Saturday afternoon hour from the Memorial Day weekend through the Labor Day weekend. If the results show additional traffic impacts due to operation of the hotel that were not anticipated in the traffic study, the permittees shall submit a mitigation plan for Commission review and upon approval of the plan, shall implement the identified mitigations.

e.b. **PRIOR TO COMMENCEMENT OF OPERATION**, the permittees shall establish a shuttle limousine/van service to provide transportation for hotel patrons. The route and schedule for the service shall include daily trips to major visitor points, i.e. Carmel, Pebble Beach, Monterey, Point Lobos, etc., and to the Monterey Airport. The service may be coordinated with similar services offered by other Cannery Row operators. The route and schedule shall be submitted to the Executive Director for review and approval prior to commencement of operation of facilities.

7. **PARKING**

a. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittees shall submit evidence of the amount of funding that will be paid into the City of Monterey's Transportation Management Fund, including documentation as to how this amount will combine with a valet parking program, public parking provisions, and an employee parking plan to fully mitigate the hotel's expected parking deficit of ~~87~~ approximately 20 spaces.

b. **BY OCTOBER 15TH OF THE FIRST TWO YEARS DURING WHICH THE HOTEL HAS BEEN IN OPERATION FROM THE MEMORIAL DAY WEEKEND THROUGH THE LABOR DAY WEEKEND**, the permittees shall submit to the Executive Director for review the results of monitoring regarding effectiveness of the WAVE ridership and regarding parking conditions at the hotel's parking garage from the Memorial Day weekend through the Labor Day weekend. If the results show additional unanticipated parking impacts due to operation of the hotel, the permittees shall submit a mitigation plan for Commission review and upon approval of the plan, shall implement the identified mitigations.

8. MARINE RESOURCES

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and approval a debris containment plan, which shall provide details of proposed methods to ensure that no construction material, equipment fuel or oil, excavated material, or other matter harmful to the habitat of Monterey Bay shall be allowed to enter the waters of the bay. Earthwork operations shall be performed during the dry season unless approved by the Public Works Department of the City of Monterey. Catch basins shall be used to retain sediment within the site area during and after the construction period to prevent an increased sediment discharge to the bay. Prompt debris cleanup is required in shoreline areas during construction. The applicant shall minimize areas where construction and demolition machinery can operate in intertidal and shoreline areas to minimize disturbance to these habitats. Washing of vehicles in the proposed parking structure is prohibited to improve runoff water quality. The applicants shall provide adequate litter receptacles along the public walkway of the hotel. The applicants shall develop a shoreline restoration and maintenance program for the restoration needs area shown in the Land Use Plan. This program shall include an evaluation of stormwater outfall improvements on the shoreline restoration area. All storm runoff shall be directed to stormwater outfall improvements as prescribed in the shoreline restoration and maintenance program. The applicants will follow all policies of the Cannery Row Local Coastal Program Land Use Plan for the protection of marine resources during detailed design and construction phases, including stormwater runoff policies designed to prevent pollution of bay waters. A stormwater Pollution Prevention Plan and a Construction Water Quality Plan shall be prepared and shall include appropriate best management practices from the City of Monterey's Model Urban Runoff Program, terms of the Statewide General Construction Permit, and recommendations of the Central Coast Regional Water Quality Control Board. A construction plan shall be submitted to the Executive Director for review and approval to ensure construction equipment will be used and stored so that it has minimal impact on the marine environment.

9. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the applicants have executed and recorded against the parcel(s) governed by this permit a lease and deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject properties, subject to terms and conditions that restrict the use and enjoyment of these properties; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Properties. The lease and deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The lease and deed restriction shall also indicate that, in the event of an extinguishment or termination of the lease and deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject properties so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject properties.

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863
www.coastal.ca.gov



July 27, 2005

NOTICE OF EXTENSION REQUEST FOR COASTAL DEVELOPMENT

Notice is hereby given that: **Brian Hinman**

has applied for a one year extension of Permit No: **A-3-SCO-00-033-A1**

granted by the California Coastal Commission on: **September 10, 2003**

for **Request to extend the expiration date of CDP A-3-SCO-00-033-A1 by one year to September 10, 2006. CDP A-3-SCO-00-033-A1 provides for construction of a singlefamily residence with detached accessory structure, pool, courtyard and driveway.**

at **Approximately ¾ of a mile inland of State Highway One at the Santa Cruz/San Mateo County border adjacent to Año Nuevo State Reserve, North Santa Cruz County (Santa Cruz County)**

Pursuant to Section 13169 of the Commission Regulations the Executive Director has determined that there are no changed circumstances affecting the proposed development's consistency with the Coastal Act. The Commission Regulations state that "if no objection is received at the Commission office within ten (10) working days of publishing notice, this determination of consistency shall be conclusive. . . and the Executive Director shall issue the extension." If an objection is received, the extension application shall be reported to the Commission for possible hearing.

Persons wishing to object or having questions concerning this extension application should contact the district office of the Commission at the above address or phone number.

Sincerely,
PETER M. DOUGLAS
Executive Director


By: **STEVE MONOWITZ**
Permit Supervisor

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863

**Memorandum****August 9, 2005**

To: Commissioners and Interested Parties

From: Charles Lester, Deputy District Director, Central Coast

Re: **Additional Information for Commission Meeting, Wednesday, August 10, 2005**

<u>Agenda Item</u>	<u>Applicant</u>	<u>Description</u>	<u>Page</u>
W5a, SCO-1-05 (Mobile Home Parking)	County of Santa Cruz	Correspondence	1
W5b, SCO-1-04 Part 3 (Procedural Update) Time Extension)	County of Santa Cruz	Correspondence	2
W6a, A-3-05-33	Moeller	Correspondence	3
W6b, A-3-05-46	GFS Cambria	Correspondence	19
W7a, 3-02-144	Kelley & Green	Withdrawal of Application	71
W7b, 3-04-75	Santa Cruz Seaside Co.	Request for Postponement	72
W7c, 3-05-1	Caltrans	Staff Report Addendum Correspondence	73 77
W8a, 3-01-15A	CalPoly	Staff Report Addendum	95

W5a

RECEIVED

AUG 01 2005

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

To whom it may concern:

This letter is a reply to the Santa Cruz County's LCP Amendment No. SCO-MAJ-05 (Mobile Home Parking). Most mobile home parks in this County are at least 30 years old. No new mobile home parks have been allowed to be built. Property is expensive and demand for affordable housing is high. People are buying older mobile homes and replacing them with newer models on the same parcel which was zoned 30 or more years ago. Requiring two parking places where only one existed before and then charging an enormous "fee" for those who do not comply is another government attempt to tax. No other real explanation can be given other than to call this a TAX !!!

Thank You



Paul Gallus



COUNTY OF SANTA CRUZ

W56

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123

TOM BURNS, PLANNING DIRECTOR

RECEIVED

August 5, 2005

AUG 05 2005

California Coastal Commissioners
c/o Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, CA 95060

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

**SUBJECT: AUGUST 10, 2005 ITEM RELATIVE TO EXTENSION OF TIME LIMIT FOR
COMMISSION ACTION ON SANTA CRUZ COUNTY LOCAL COASTAL PROGRAM
MAJOR AMENDMENT NUMBER 2-04 PART 3 (PROCEDURAL UPDATE)**

California Coastal Commissioners:

At your August 10th meeting, your Commission will be considering request by your staff for a one year extension for the analysis of ordinance amendments adding additional public notification for certain discretionary permit applications.

The County of Santa Cruz protests this one-year extension request for two reasons. First, the ordinance changes are fairly minor -- adding additional public involvement in the discretionary permit process such as requiring an explanatory sign at the project site, notifying affected property owners and occupants of application submittals, and requiring pre-application neighborhood meetings for large projects. Second, these ordinance amendments were previously reviewed by Coastal staff. The amendments were originally submitted to Coastal Commission staff on December 14, 2004, and scheduled for your Commission's review at your March 18, 2005 meeting. We requested the item be pulled from the agenda after discovering an error in the ordinance. After correction, we resubmitted the item on March 8, 2005. How could five months not have been enough time to complete a review of such a simple proposal?

Additionally, you should be aware that the issue of timely review of local ordinance amendments has become a growing concern for our County. At the current time, there are several sets of ordinance changes pending before the Commission's staff, with one relatively simple packet pending now for almost a year. As you can imagine, such long delays creates significant problems in administering our local land use regulations and raise a number of questions in our minds in terms of the Commission meeting statutory requirements for the timely review of coastal regulation amendments.

While we are sympathetic of the workload of staff, we do not believe that it constitutes "good cause" for a one-year extension. An extension of one or two months should be sufficient to analyze these amendments. We would therefore request your Commission to only grant a short-term extension for the review of this ordinance, and furthermore, provide direction to your staff to process such requests in the future in a more timely basis.

Sincerely,


Tom Burns

Planning Director

W6a

BRIAN D. CALL

Attorney at Law

*Sean Flavin
Of Counsel*

500 Camino El Estero, Suite 200
Monterey, California 93940-3206
briancall@mtrylaw.com

Telephone (831) 649-3218
Facsimile (831) 649-4705

August 4, 2005

RECEIVED

AUG 05 2005

Commission Staff
California Coastal Commission
Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, CA 95060-4508
By Federal Express

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Re: Permit No: A-3-MCO-05-033
Applicants: Michael and Patricia Moeller
Appellant: Mary J. Whitney
Project Location: 194 San Remo Drive (at and adjacent to)
Carmel Highlands (Monterey County)
APN: 243-181-005 and 243-181-005

Hearing Date & Location: Wednesday, August 10, 2005, 9:00 a.m.
The Westin South Coast Plaza
686 Anton Boulevard, Costa Mesa, CA

Item No: W6a

Dear Sir/Madam:

In accordance with the public hearing notice for the above-referenced matter dated July 22, 2005, attached please find materials to be distributed to the Commission which are submitted on behalf of the appellant, Mary J. Whitney:

1. Appellant's memorandum in connection with and rebuttal to Staff's recommendation that the subject appeal raises no substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.
2. Joint Declaration of Leland Lewis and Judy Lewis dated August 4, 2005, confirming that there is no access to the subject real property from Mentone Drive, Carmel Highlands, California.
3. My letter to Cindy Nagai dated August 4, 2005 confirming that the findings of the Monterey County Board of Supervisors as acknowledged by Coastal Commission staff to the effect that the Fire District has "made no indication that the project would

Brian D. Call
Attorney at Law

August 4, 2005
Page 2

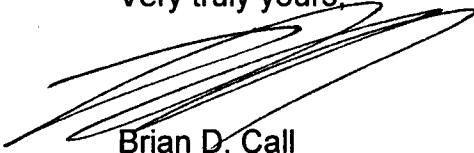
result in inadequate access for emergency vehicles for either parcel" **DOES NOT** represent the position of the Fire District.

4. Unit Chief Sam Mazza's letter to me dated August 4, 2005.

This matter presents a significant safety issue to appellant and those parties utilizing the existing emergency access between San Remo and Mentone Drive in Carmel Highlands, California. The lot line adjustment should not have been approved in accordance with the Coastal Act without providing for required emergency access. As stated in Chief Mazza's letter to the undersigned, a copy of which is attached: "The access road to the adjoining parcels does not meet the current road standards as set forth in the adopted Fire Code by this Fire District nor Monterey County."

The appellant would urge the Commission to find that there is a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act and grant the appellant's appeal filed in the subject matter.

Very truly yours,



Brian D. Call

BDC/djv
Enclosures
cc/w/enc:

Mary J. Whitney
Pamela Silkwood (Applicants' Attorney)
Unit Chief Sam Mazza
Battalion Chief Dennis A. Carreiro
Cindy Nagai, Fire Marshal

Agenda Item No: W6a
Appeal No: A-3-MCO-05-033
Appellant: Mary J. Whitney

The Appellant finds that Appeal No. A-3-MCO-05-033 does present a substantial issue with respect to the grounds on which the appeal has been filed under 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

The Appellant's contentions remain the same. Appellant believes that the contentions hold true and that the staff report does not prove otherwise. Below are a variety of examples:

"Condition 16 of the County approval requires that prior to filing the record of survey, the applicants provide documentation to the Director of Planning and Building Inspection Department and the Director of Public Works for review and approval that the newly configured Parcel 2 has adequate access including necessary easements and/or deed restrictions on Parcel 1." (pp15 staff report)

The staff report page 16 states "the applicants have shown how they will be able to comply with the County condition by placing an easement over reconfigured Parcel 1 to allow access from the roadway between Mentone Drive and San Remo Road to reconfigured parcel 2. Such access would meet Fire Department requirements without significantly impacting coastal resources, provided it is designed to minimize tree removal on site. It appears also to be possible to access reconfigured Parcel 2 directly off the aforementioned roadway".

- Exhibit D of the staff report shows this "apparent access directly off the aforementioned roadway". This map is inaccurate and obsolete. The access shown uses a portion of the fire easement which is not on Applicants land and Applicant does not have permission to use. (See Lewis Affidavit)
- The staff report references 3 memos from the Carmel Highlands Fire Marshal (Exhibit N staff report) which have nothing to do with access to Parcel 2.
- There is no roadway between Mentone and San Remo. (CIP Section 18.56.060.3)
- There is one driveway off San Remo and one driveway off Mentone (CIP Section 18.56.060.12).
- The San Remo driveway exceeds a 15% grade. (CIP Section 18.56.060).
- The proposed easement over reconfigured lot 1 will not meet Fire Department requirements. (Ord.3600)
- Proposed new lot line will create a land locked lot.

“As shown in Exhibit H, these parcels, and at least three other neighboring ones, are accessed by a road between Mentone Drive and San Remo Road.” (pp6 staff report)

- The highlighted areas on Exhibit H do not indicate access of any kind.
- There is no road between Mentone and San Remo. (CIP Section 18.56.060.3)
- Only the Fire Department can use this emergency use easement (Exhibit 1).
- #7 Mentone Drive’s driveway is for 7 Mentone only.
- 193, 194, 195 share a driveway off San Remo which exceeds 15% grade. This is their only access.

(Contention C)

Applicant should use the Northern Easement to access to Parcel 2. Applicant should not be allowed to block the use of this easement with a house on Parcel 1.

“Noted documents and parcel maps also show an easement off of San Remo Road that could be extended to provide emergency access to reconfigured parcel 2 through its northerly boundary (Exhibit O).

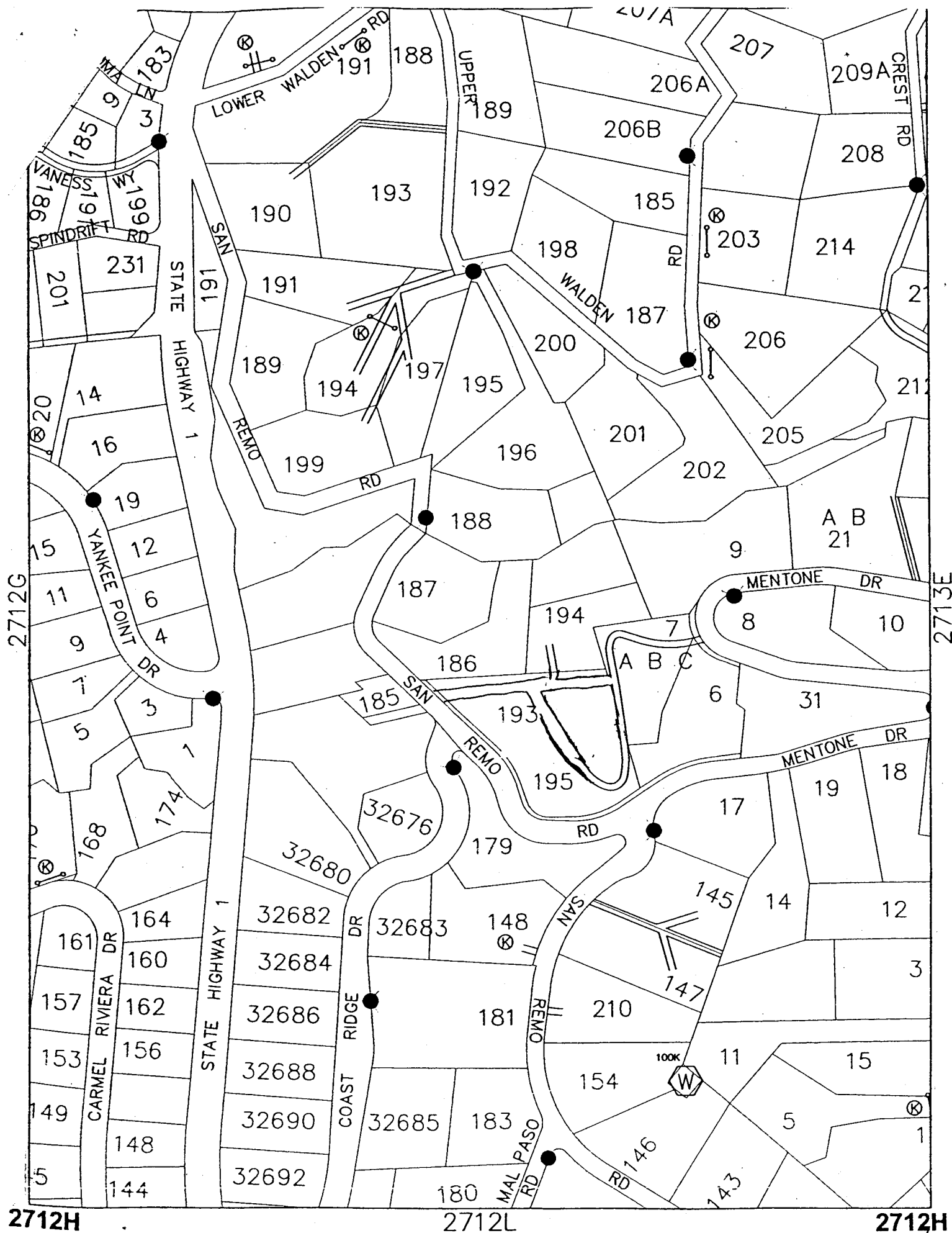
- This access is the original easement for all three of the Applicants parcels.
- This access must be developed to reach the Applicants third parcel.
- The Applicants third parcel borders Parcel 2 whether reconfigured or not.
- Applicants proposed house on Parcel 1 is positioned to block access from the Northern easement to both reconfigured Parcel 1 & reconfigured Parcel 2. (pp16)
- Reconfigured Parcel 2 may have access to the Northern easement through a shared boundary with Applicants third parcel (APN:241-291-11).

Regarding the position of the proposed house on Parcel 1 blocking access to the northern easement, the staff report states that given the other potential accessways (plural) from the San Remo to Mentone roadway, the northern access is unnecessary.

- There are no accessways.
- There is no roadway.
- The access from Mentone serves only one residence, #7.
- 7 Mentone has granted the Fire Dept only an emergency easement (Exhibit 2).

Regarding the Applicants proposed lot line adjustment, Appellant does not believe that “the purpose of the lot line adjustment is to reduce development constraints on the second parcel” (pp1)

- Exhibits D, E, M are inaccurate renderings of the proposed new lot line.
- The purpose of the proposed new lot line is to allow the Applicant to build two larger houses on two substandard parcels.
- The proposed new lot line actually prevents parcel 2 from touching its original access easement on the Northern boundary (Exhibit 3).
- The proposed new lot line creates a land locked lot, reconfigured Parcel 2.



Updated Fire Access Easement Map

EXHIBIT 1

ORDER

APN

WHEN RECORDED MAIL TO

Name
Street
Address
City &
State

Carmel Highlands Fire Protection
District
Fern Canyon Road
Carmel Highlands, Ca. 93923
Attn: Lanny White

28306

R	5
M	1
RF	3
T	9

RECORDED AT REQUEST OF
CARMEL HIGHLANDS
FIRE PROTECTION DIST

MAY 17 8 12 AM '91

OFFICE OF RECORDER
COUNTY OF MONTEREY
SALINAS, CALIFORNIA

REEL 2644 PAGE 543

SPACE ABOVE THIS LINE FOR RECORDER'S USE

EASEMENT

Grant Deed

ALL	PTN.

The undersigned grantor(s) declare(s):
Documentary transfer tax is \$ Nil. CONVEYANCE OF AN EASEMENT NO CONSIDERATION PAID

- () computed on full value of property conveyed, or
() computed on full value less value of liens and encumbrances remaining at time of sale.
() Unincorporated area: () City of
() Realty not sold.

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Leland R. Lewis and Judith Lewis, husband and wife,

hereby GRANT(S) to

Carmel Highlands Fire Protection District of Monterey County

that property in Monterey
as

County, State of California, described

A NON-EXCLUSIVE EASEMENT FOR EMERGENCY ACCESS PURPOSES ONLY SITUATE IN A PORTION
OF PARCEL 1, SAN REMO SUBDIVISION NO. 1, CARMEL HIGHLANDS, MONTEREY COUNTY, CALIF.

and described in Exhibit "A" attached hereto and made a part hereof.

Mail tax statements to Same as above.

Date February 13, 1991

STATE OF CALIFORNIA }
COUNTY OF Monterey } SS.

On Feb 13, 1991 before me, the undersigned,
a Notary Public in and for said State, personally appeared
Leland R. Lewis and Judith Lewis

Leland R. Lewis

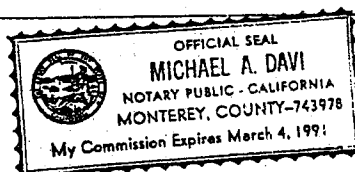
Judith Lewis

personally known to me (or proved to me on the basis of
satisfactory evidence) to be the person whose name are
subscribed to the within instrument and acknowledged that
they executed the same. Witness my hand and official seal.

Signature

Michael A. Davi

Name (Typed or Printed)



DESCRIPTION OF A RIGHT OF WAY FOR ACCESS PURPOSES SITUATE IN A
PORTION OF PARCEL 1, SAN REMO SUBDIVISION NO. 1,
CARMEL HIGHLANDS, MONTEREY COUNTY, CALIFORNIA.

REEL 2644 PAGE 544

A description of a right of way for access purposes situate in a portion of Parcel 1, as said Parcel is shown and designated on that certain Map entitled "San Remo Subdivision No. 1", filed for record in Volume 3 of Cities and Towns at Page 53, Official Records of Monterey County, California; lying within the following described portion of land

BEGINNING at the northeast corner of Parcel A, as said Parcel is shown and designated on that certain Map filed in Volume 4 of Parcel Maps at Page 30, Official Records of Monterey County, California, said point also being on the westerly boundary of that certain Parcel designated as Parcel A on that certain Map filed in Volume 15 of Parcel Maps at Page 103, Official Records of Monterey County, California; thence leaving said point of beginning

1. N. 10° 30' W., 60.00 feet; thence
2. Northeasterly 49.74 feet, along the arc of a curve to the right with a radius of 30.00 feet, through a central angle of 95° 00' (long chord bears: N. 37° 00' 03" E., 44.24 feet); thence
3. N. 84° 30' E., 66.00 feet; thence
4. S. 72° 15' E., 64.00 feet; thence
5. N. 85° 40' E., 53.48 feet to a point on the eastern boundary of said Parcel A (15 PAR 103) from which the north corner of Parcel B as shown of said Parcel Map bears: Southerly 22.60 feet along the arc of a curve to the left the center of which bears N. 67° 18' 08" E., 108.00 feet, through a central angle of 11° 59' 19" (long chord bears S. 28° 41' 35" E., 22.56 feet); thence following said boundary
6. Northerly, 20.55 feet along the arc of a curve to the right the center of which bears N. 67° 18' 08" E., 108.00 feet, through a central angle of 10° 54' 07" (long chord bears: N. 17° 14' 50" W., 20.52 feet) from which the north corner of Parcel A (4 PAR 30) bears: Northerly 28.53, along the arc of a curve to the right with a radius of 108, through a central angle of 15° 08' 14" (long chord bears N. 4° 13' 38" W., 28.45 feet); thence leaving said boundary line
7. S. 85° 40' W., 44.99 feet; thence
8. N. 72° 15' W., 50.87 feet to a point on the northern boundary of said Parcel A (15 PAR 103), from which the north corner of said Parcel bears N. 79° 53' 30" E., 92.65 feet; thence following said northern boundary of said Parcel
9. S. 79° 53' 30" W., 118.23 feet from which point the northwest corner of said Parcel bears S. 79° 53' 30" W., 8.24 feet; thence
10. Southwesterly, 10.74 feet along the arc of a curve to the left, the center of which bears S. 50° 41' 35" E., 50.00 feet, through a central angle of 12° 18' 38" (long chord bears: S. 33° 09' 13" W., 10.72 feet) to a point on the western boundary of said Parcel from which said northwest corner of said Parcel bears N. 16° 36' 11" W., 7.88 feet; thence following said western boundary of said Parcel
11. S. 16° 36' 11" E., 98.81 feet to the point of beginning.

CARMEL HIGHLANDS FIRE PROTECTION DISTRICT

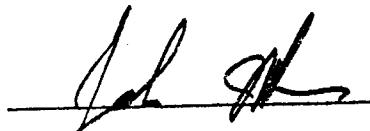
RESOLUTION #198-91

BE IT HEREBY RESOLVED by the Governing Board of the Carmel Highlands Fire Protection District that the deed of Leland R. Lewis and Judith Lewis of Carmel, California, dated February 13, 1991, conveying real property therein described to the Carmel Highlands Fire Protection District, is hereby accepted, and the said district, as grantee, consents to recordation thereof by its duly authorized officer Dan Keig, Secretary.

On motion of Director BREWER, seconded by Director HERBERT, the forgoing resolution is passed and adopted by the Governing Board of the Carmel Highlands Fire Protection District of Monterey County, California, this 15 day of MAY by the following vote:

AYES:
NOES:
ABSENT:

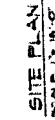
signed:


John Hudson, President


Dan Keig, Secretary

END OF DOCUMENT

And Northern Access Easement



California Coastal Commission

1 Brian D. Call (SBN: 99429)
Attorney at Law
2 500 Camino El Estero, #200
Monterey, CA 93940
3 Telephone: 831-649-3218
Facsimile: 831-649-4705
4

5 Attorney for Appellant Mary J. Whitney
6
7

8 **CALIFORNIA COASTAL COMMISSION**

9 In Re Permit Number A-3-MCO-05-033) JOINT DECLARATION OF LELAND LEWIS
10 Applicants: Michael & Patricia Moeller) AND JUDY LEWIS
11 Appellant: Mary J. Whitney) Date: Wednesday, August 10, 2005
12) Time: 9:00 a.m.
13) Item: W6a
14) Place: The Westin South Coast Plaza
686 Anton Blvd., Costa Mesa, CA

15
16
17 We, Leland Lewis and Judy Lewis, declare:

18 1. We are the owners of the real property located at 7 Mentone Drive, Carmel
19 Highlands, California, which real property is shown as the cross-hatched portion of Exhibit
20 "C" to the Appeal Staff Report Substantial Issue Determination (the "Staff Report") (cross-
21 hatched added and attached as Exhibit "1").

22 2. Contrary to the representations made by Coastal Commission Staff in the
23 Staff Report, there is no private access from Mentone Drive to the Applicants' property
24 (either 194 San Remo Road or APN: 243-181-005) (denominated Parcels 1 and 2,
25 respectively, in the Staff Report).
26

1 3. In order to address the access issue for Parcels 1 and 2, the Applicants
2 attempted to negotiate the acquisition of an easement for private road purposes which
3 would encumber our property as the servient tenement in favor of the Applicants' property
4 which is the subject of this appeal. We have repeatedly and consistently advised the
5 Applicants that we will not sell them an access easement over, under or through our
6 property for the benefit of Applicants' property.

7 We declare under penalty of perjury under the laws of the State of California that the
8 foregoing is true and correct. Executed on August 4, 2005 at Carmel Highlands, California.

9
10 Leland R. Lewis
 Leland Lewis

11
12 Judy Lewis
 Judy Lewis

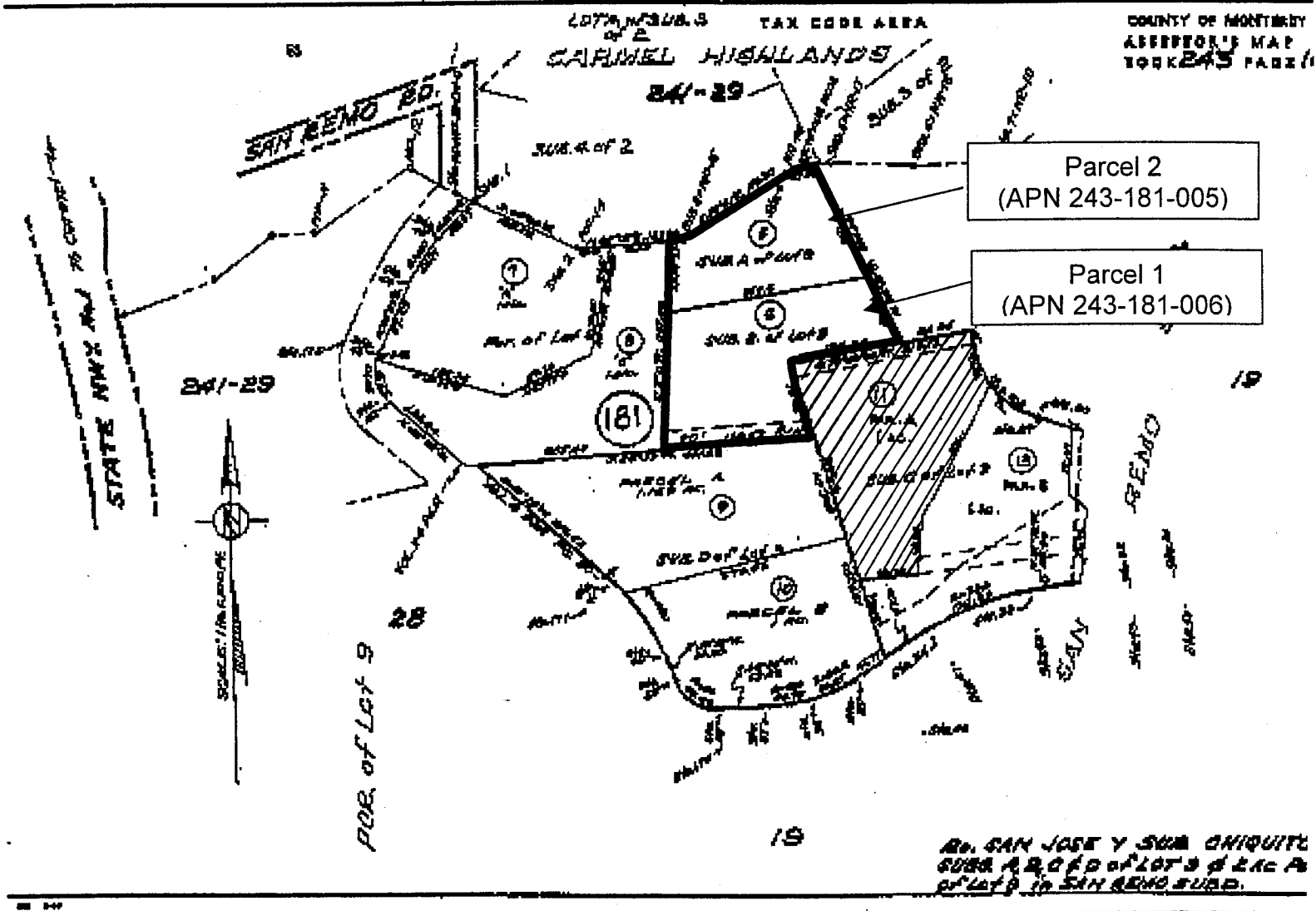


Exhibit C
Assessors Parcel Map – Existing Lot Line Configuration

BRIAN D. CALL

Attorney at Law

Sean Flavin
Of Counsel

500 Camino El Estero, Suite 200
Monterey, California 93940-3206
briancall@mtrylaw.com

Telephone (831) 649-3218
Facsimile (831) 649-4705

August 4, 2005

Cindy Nagai
Fire Marshall
Carmel Highlands Fire District
2221 Garden Road
Monterey, CA 93940

By e-mail: cindy.nagai@fire.ca.gov and fax: 624-2363

Re: 194 San Remo (Parcel 1)
APN: 243-181-006 (Parcel 2)
California Coastal Commission Permit No. A-3-MC0-05-033

Dear Cindy:

This letter is a follow up to the declaration which I forwarded to you via e-mail yesterday along with an additional copy which was delivered to you this morning by Mary Whitney and my conversation of this morning with Dennis Carreiro, Battalion Chief. In my conversation with Battalion Chief Carreiro, he requested that I forward to you a request to confirm that the findings of the Monterey County Board of Supervisors as acknowledged by the Coastal Commission Staff in the above-referenced appeal to the effect that the Fire District has "made no indication that the project would result in inadequate access for emergency vehicles for either parcel" **DOES NOT** represent the position of the Fire District as to any possible future single-family dwelling on Parcel 2, nor does it approve any access issues related to possible future development of a single-family dwelling on Parcel 2. Your position in connection with this matter is reflected in your memorandum to Timothy Johnson, Associate Planner, referencing PLN 04050/Moeller – APN: 243-181-006 dated March 31, 2005, a copy of which is attached.

If you could confirm your agreements to the foregoing by 2:00 p.m. this afternoon in order for me to submit your confirmation and acknowledgment of the foregoing to the Coastal Commission prior to the deadline for submittals, it would be greatly appreciated.

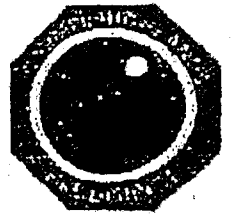
Very truly yours,



Brian D. Call

BDC/djv
Enclosure
cc: Mary J. Whitney

Carmel Highlands Fire Protection District



73 Fern Canyon Road
Carmel, CA 93923
Telephone (831) 624-2374
Facsimile: (831) 624-2363

TO: Timothy Johnston, Associate Planner
FROM: Captain Cindy Nagai, Fire Marshal *CN*
DATE: 3/31/05
SUBJ: PLN040050/Moeller - AP#243-181-006

This office reviewed a project at 184 San Remo Drive, AP#243-181-006 on March 28, 2005. This project was reviewed for code compliancy for the development of a 2 story 3,641 sq. ft single family dwelling under AP#243-181-006. This plan review does not approve any "possible future S.F.D.", nor does it approve any access issues related to "possible future S.F.D.".

There is some confusion with the neighbor's who think approval of this project approves any future related projects. All future projects will be subjected to the same code compliance review particularly in reference to the access issues.

If you have any questions, please let me know.

Cc: file
Pam Silkwood *✓*

Exhibit N - pg 5 of 5

Carmel Highlands Fire Department Correspondence Regarding Emergency Access

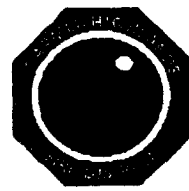


California Coastal Commission

A-3-MCO-05-033
Moeller SFD and Lot Line Adjustment ¹⁶

Carmel Highlands Fire Protection District

73 Fern Canyon Road
Carmel, CA 93923
Telephone (831) 624-2374
Facsimile: (831) 624-2363



August 4, 2005

Mr. Brian Call
Attorney at Law
500 Camino El Estero, Suite 200
Monterey, California 93940-3206

Re: 194 San Remo, Moeller Project, Parcel 1

Dear Mr. Call:

We have received your request for clarification of the Fire Districts position on the proposed development on the above referenced project.

The statement from the Coastal Commission Staff Report that the Fire District has "*made no indication that the project would result in inadequate access for emergency vehicles for either parcel*" DOES NOT represent the position of the Fire District as to any possible future single family dwelling on Parcel 2" may have been utilized out of context. I would like to clarify the two key points that we made in our presentation to the Monterey County Board of Supervisors on April 19 of this year.

Item 1

Our letter dated March 31, 2005, following review of the Moeller Project on Parcel 1, states "*This plan review does not approve any possible future S.F.D., nor does it approve any access issues related to possible future S.F.D.*".

The Fire District is not prepared to address any requirements for development on Parcel 2. There has been no application made to this office for a project on this site. It is not our position to place requirements on projects that do not exist.

Item 2

The Fire District has "*made no indication that the above project would result in inadequate access for emergency vehicles for either parcel* DOES NOT represent the position of the Fire District".

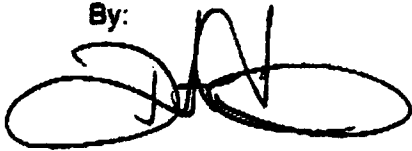
At the April meeting with the Board of Supervisors, it was stated by me that "the approved access to Parcel 1 is no more hazardous than the existing approved access to the other homes in the area". The access road to the adjoining parcels does not meet the current road standard as set forth in the adopted Fire Code by this Fire District nor Monterey County.

We hope this clarifies our position. Please contact Fire Captain Cindy Nagai if there is any additional clarification required.

Sincerely,

Sam L. Mazza
Unit Chief

By:

A handwritten signature in black ink, appearing to be "Dennis A. Carreiro", written over a large, stylized oval flourish.

Dennis A. Carreiro
Battalion Chief

ANDRE,
MORRIS
& BUTTERY
A PROFESSIONAL LAW CORPORATION

W66
PETER R. ANDRE (1918-2000)
MICHAEL J. MORRIS
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DENNIS D. LAW
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SCOTT W. WALL
KATHRYN M. EPPRIGHT
KEVIN D. MORRIS
WILLIAM V. DOUGLASS
JEAN A. ST. MARTIN
LISA LaBARBERA TOKE
MELISSA M. MCGANN
BETH A. MARINO
JULIE CASEY MARTINEZ
PHILIP A. MARTINEZ

August 8, 2005

Via Facsimile and E-mail

California Coastal Commission
C/O Steve Monowitz
Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, CA 95060

2739 Santa Maria Way, Third floor
Post Office Box 1430
Santa Maria, CA 93456-1430

Telephone 805.937.1400
Facsimile 805.937.1444

1102 Laurel Lane
Post Office Box 730
San Luis Obispo, CA 93406-0730

**Re: Coastal Commission Agenda No.---W6b
Appeal No.---A-3SLO-05-046 Rod and Reel Mobile Home Park Closure
Name---James C. Buttery Attorney for Applicant
Position---Vote No on "Substantial Issue" Determination**

Dear Commissioners:

This firm represents GFS Cambria, LLC and Jeff Edwards (collectively, the "Applicant") in regard to the above referenced matter. The following is the applicant's response to the Coastal Commission Staff Report for Appeal A-3-SLO-05-046.

Summary of Applicant's Position.

In summary, the Applicant would like to assert the following to the Commission in regard to the Appeal:

1. The replacement housing requirements of San Luis Obispo County Coastal Zone Land Use Ordinance ("CZLUO") Section 23.04.092b(1) **do not** apply because there are less than eleven (11) dwelling units on the Property. There are only a maximum of nine (9) dwelling units on the Property (eight (8) mobile homes and one (1) single family residence).
2. Cessation of use is not a "change in use" triggering the requirements of CZLUO Section 23.04.092.
3. Failure of the County to find that residential use of the site is infeasible is inconsequential because there are less than eleven (11) dwelling units on the Property.

Coastal Commission
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Page 2

4. The Applicant and County did not fail to address the impact of the closure on tenants and availability of replacement housing, because there was no displacement of tenants as a result of the closure.

A more detailed discussion of these points is set forth below. Note that all of these conclusions are supported and elaborated on by the County of San Luis Obispo Staff Report to the Planning Commission prepared for meeting dated May 26, 2005, a copy of which is attached hereto (the "County Staff Report").

The Number of Units at Issue.

At the heart of this appeal is the number of dwelling units on the Property. The Coastal Commission Staff Report seems to rely on a 1991 survey stating that there were 22 units. The crux of the Coastal Commission Staff Report's analysis is set forth in Footnote 3 on Page 3, which in asserting that "Replacement Affordable Housing Units Have Not Been Provided" concludes that, "This requirement applies to the demolition or conversion to a non-residential use involving three or more dwelling units in one structure, or 11 or more dwelling units in two or more structures. Based on the previously operating capacity of the park, the proposed development involves the conversion of 11 or more dwelling units in more than two structures, and is therefore subject to the replacement requirements of CZLUI Section 23.04.092b(1)."

While we cannot confirm the number of units in 1991, we can confirm that 14 years later there are only eight (8) mobile homes on the Property, resulting in a maximum of nine (9) "dwelling units," if you include the single family residence which is also located on the Property. This was the conclusion made in the County Staff Report (See County Staff Report analysis on page 2-3 and inventory listed on page 2-14).

As evidenced by the permits issued by the Department of Housing and Community Development (copies of which are attached hereto), the Property was entitled to maintain a maximum of ten (10) mobile homes and ten (10) Recreational Vehicle ("RV") spaces. Note that the RV spaces were not "dwelling units." These were temporary short term occupancies, at the end of which, the owners simply drove away. Furthermore, while the Property's permit allowed for a maximum of ten (10) mobile homes, there have not been ten (10) mobile homes on the property since January 2001 when the coach at Space 14 was salvaged to the landfill. A second mobile home was removed a year later in January of 2002, leaving only eight (8) mobile homes (8) on site. In addition to the mobile homes, there is a single family residence on the property which was the prior owner's home. If the single family residence is included in the tally, there are only a maximum of nine (9) dwelling units on the Property.

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Therefore, based on the Coastal Commission Staff's own analysis that CZLUI Section 23.04.092b(1) applies to instances where there are eleven (11) or more units, because there are only a maximum of nine (9) units on the Property, the affordable housing requirements of CZLUI Section 23.04.092b(1) **do not** apply.

Cessation of Use is Not a "Change in Use" or "Conversion of Use" to Non-Residential Uses.

As evidenced by the County Staff Report (see page 2-3), and the letter from the prior owner's counsel dated December 30, 2004 (Exhibit 3 page 2-23 and 2-24 of Coastal Commission Staff Report), the Applicant has consistently held that cessation of use is not a change in use or conversion of use to non-residential purposes. That would not be decided until an application for development of the property was submitted which has not been done. The language of 23.04.092 does not reference "closure" nor does it reference "cessation of use." Absent a modification of the ordinance that clarifies its applicability to the "cessation of use" as a mobile home park, it is Applicant's position that the ordinance simply does not apply. To conclude that cessation of use was a conversion to non-residential purposes, triggering the provisions of 23.04.092 would result in the government mandating that property owners continue in business against their will, which is unfair at the most basic level.

Feasibility Analysis Does Not Apply.

As already stated, because cessation of use does not constitute a conversion of use to non-residential purposes, the requirements of 23.04.092b(1) are never triggered. The specific language in 23.04.092b(1) states that, "The demolition or conversion of any residential structure to a non-residential use as described in Subsection a(3) of this section shall not be authorized unless the Review Authority finds that any residential use at the site is no longer feasible, based on substantial evidence provided by the applicant." As stated before, even if cessation of use did trigger feasibility analysis, what would that mean? In this case, if residential use was found to be feasible, the Coastal Commission staff report seems to imply that cessation of use could not be "authorized" and essentially the property owner would be forced to stay in business, which is an illogical and unfair result.

The Need for Making a Finding On Residential Feasibility Is Moot Because Property Did Not and Does Not Have Eleven (11) or More Dwelling Units

Even if it was deemed that cessation of use was a change in use or conversion of use to a non-residential purpose, and there was a finding that continued residential use was not feasible, the obligation to provide replacement units is never triggered because there are less than 11 units

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Page 4

on the Property. While the Coastal Commission Staff Report cited portions of 23.04.092b(1) in its analysis of the feasibility issue, it has left out discussion of a key limitation:

"(b) Requirements Applicable to Proposed Demolitions or Conversions.

(1) Demolition or Conversion to Nonresidential Use. The demolition or conversion of any residential structure to a nonresidential use as described in subsection (a)(1) of this section shall not be authorized unless the review authority finds that any residential use at that site is no longer feasible, based on substantial evidence provided by the applicant. *If the review authority makes this finding, and the proposed demolition or conversion involves three or more dwelling units in one structure or eleven or more dwelling units in two or more structures, and the proposed demolition or conversion is not to provide for a "coastal dependent" or "coastal related" use as defined in Section 23.11.030 of this title and Sections 30101 and 30101.3 of the California Public Resources Code, then affordable replacement units as defined in Section 23.04.094 of this title shall be provided at a ratio of one affordable unit for each demolished or converted unit that currently houses or has housed a family of low or moderate income within twelve months prior to filing of the request for a demolition or conversion permit.* [emphasis added to show language previously omitted from Coastal Commission Staff Report quotation in section regarding feasibility analysis.]

Since there are less than eleven (11) dwelling units on site, the need for making a finding regarding the feasibility of residential use is moot; because in this instance the Review Authority utterly lacks authority to compel affordable replacement housing even if there was such a finding. Moreover, as noted in Government Code § 65590 the requirement of this subdivision for replacement dwelling units shall not apply to the certain types of conversions of demolitions including ...conversion or demolition ...in the event that a proposed conversion or demolition involves more than one residential structure, the conversion or demolition of 10 fewer dwelling units." (SLO County Staff report at 2-41.)

Therefore, it does not matter that the Review Authority failed to make a finding, based on substantial evidence that residential use of the site was "infeasible," because even if there was a finding of infeasibility, there were ten (10) or fewer units on the property and the Review Authority lacked jurisdiction to require any replacement housing.

The Closure Creates No Impact and No Replacement Housing is Needed.

Coastal Commission Staff has already pointed out the County's analysis of this issue in which they concluded that, "Since there were no residents in the park, no one was displaced."

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Page 5

No one was forced to leave or left under protest. The letter attached to the County Staff Report dated November 18, 2004 from former tenant Susan Green (page 2-15) is similar to other former tenants' situations. Over the years, as alternative and more desirable opportunities came along, tenants voluntarily moved out. While the Tribune article attached to the Coastal Commission Staff Report suggests that Goldie Warren was "forced out," in truth she entered to an agreement to sell her mobile home on terms which were acceptable to her in her sole discretion. She was like Ms. Green and the other tenants who took advantage of other opportunities and voluntarily moved out of the park.


As the County Staff Report also cites on page 2-3, "...at no time was the Planning Department contacted by residents concerning the closure of the park or the termination of tenancies. There is no evidence to refute the Applicant's and prior owner's claim that each tenant sold or vacated their mobile home voluntarily, under their own free will. This information demonstrates that there was no impact to displaced residents and that there was adequate replacement housing available."

To suggest that there was an obligation to notify and relocate residents who did not exist would suggest that the owners had to obtain full occupancy and then proceed toward closure, which makes no sense. The owners' approach to closure resulted in no impact on the tenants, which is the goal of the noticing and relocation requirements of CZLUO 23.08.164.

Conclusion.

For the reasons set forth above, no substantial issue is raised and the Development Permit issued by the San Luis Obispo Planning Commission on May 26, 2005 should be final.

Very truly yours,



James C. Buttery

JCB/jas
Enclosures

cc: Jeff Edwards
Dave Neish (via e-mail)
Steve Miller (via e-mail)

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Promoting the wise use of land
Helping build great communities

COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING AND BUILDING
STAFF REPORT

PLANNING COMMISSION

2-1

MEETING DATE May 26, 2005	CONTACT/PHONE Martha Neder, AICP, Planner 805-781-4576	APPLICANT GFS Cambria, LLC	FILE NO. DRC2004-00176
SUBJECT Hearing to consider a request by GFS Cambria, LLC for a Development Plan/Coastal Development Permit to allow the closure of a mobile home park pursuant to Section 23.08.164g of the Coastal Zone Land Use Ordinance. The project will not result in disturbance on the 2.4-acre parcel. The proposed project is within the Office/Professional and Residential Multi-Family land use categories and is located at 1460 Main Street in the community of Cambria. The site is in the North Coast planning area.			
RECOMMENDED ACTION Approve Development Plan/Coastal Development Permit DRC2004-00176 based on the findings listed in Exhibit A and the conditions listed in Exhibit B.			
ENVIRONMENTAL DETERMINATION A Class 1 Categorical Exemption was issued on April 25, 2005 (ED05-491)			
LAND USE CATEGORY Office/Professional, Residential Multi-Family, Recreation	COMBINING DESIGNATION AS/CBD/FH/LCP/SRV	ASSESSOR PARCEL NUMBER 013-251-008	SUPERVISOR DISTRICT(S) 2
PLANNING AREA STANDARDS: None applicable			
LAND USE ORDINANCE STANDARDS: 23.08.164 – Mobilehome Parks			
EXISTING USES: Mobilehome Park			
SURROUNDING LAND USE CATEGORIES AND USES: North: Commercial Retail East: Office/Professional South: Residential Multi-Family West: Public Facilities			
OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: The project was referred to: North Coast Advisory Council, Public Works, Ag Commissioner, Cambria Community Services District, Cal Trans, California Coastal Commission			
TOPOGRAPHY: Nearly level to steeply sloping		VEGETATION: Ruderal, ornamental landscaping, riparian	
PROPOSED SERVICES: Water supply: CCSD Sewage Disposal: CCSD Fire Protection: Cambria Fire		ACCEPTANCE DATE: April 25, 2005	
ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT: COUNTY GOVERNMENT CENTER ♦ SAN LUIS OBISPO ♦ CALIFORNIA 93408 ♦ (805) 781-5600 ♦ FAX: (805) 781-1242			

2-2

PROJECT DESCRIPTION

This Development Plan application is to authorize the closure of the Rod and Reel mobilehome park. The current proposal is for the mobilehomes to remain on the site in a vacant condition with a caretaker residing in one mobilehome for security purposes. This application does not include a request to authorize a future use or development of the property. Any proposed development or new use on the property would require further permit approval.

There is some disagreement as whether a Development Plan is required at this time since the applicant does not currently have plans for a future use or development. County staff maintains that although the mobilehome park is not being replaced with a new use, the site has ceased operation as a mobilehome park as it no longer contains tenants. Initial steps have been taken to close the mobilehome park and convert it to a new use. Therefore, a Development Plan is required to authorize the closure.

In order to close the park pursuant to State requirements, the utilities would need to be capped and the mobilehomes removed. The applicant plans to submit for a permit to develop the property within the next year. In order to minimize disturbance of the site, staff recommends this application be to authorize closure of the park but that all physical improvements be deferred to a subsequent permit approval so that impacts to the site can be addressed at one time.

PROJECT HISTORY

The Saturday, August 28, 2004 edition of the Telegram Tribune contained an article regarding a tenant moving out of the Rod and Reel Trailer Park due to its closure. On September 2, 2004, County staff wrote the owner's of the Rod and Reel Trailer Park informing them of Coastal Zone Land Use Ordinance (CZLUO) Section 23.08.164g which sets forth criteria for conversion of mobilehome parks to other uses. The letter informed the owners that in the absence of an approved Development Plan, asking or requiring residents to move from a mobilehome park for the purpose of converting it to another use is a violation of the county ordinance.

In response to the County's letter, the property owner's representative explained that the owners have been acquiring the coaches on the property since 1977 and then renting them out on a month to month basis (typically residents own their coaches in mobilehome parks and simply rent the space on which they are located). The letter also stated that nearly all of the tenants have voluntarily vacated the property over the last year. The owners asked that the County determine the property does not constitute a mobile home park within the meaning of the CZLUO because of their long-term ownership of the property, their deliberate acquisition of coaches, and that there was no intention to develop the property immediately.

The County followed with a response that as recently as February of 2003, three spaces were rented for mobile home units, meeting the State definition of a mobilehome park. Since the property qualified as a mobilehome park, a Development Plan application must be filed with the county prior to any action to convert the park. Conversion includes requiring tenants to move, and removing the units, even if no other use is planned. Therefore, staff has determined that as recently as February 2003 the site was used as a mobilehome park and the required application should have been filed prior to closure.

Again the property owners disagreed with the County's position because no mobilehome owner was required to sell their coach and no mobilehome owner was required to vacate from the property. Tenants either voluntarily sold their coaches, moved, or passed away.

2-3

The property was sold and the new owner submitted this application for a Development Plan to close the mobilehome park solely in response to the Department's assertion that the previous property owner was in violation of CZLUO Section 23.08.164g. The property owner does not accept the County's conclusion, and the application was submitted under protest.

COASTAL ZONE LAND USE ORDINANCE STANDARDS:

Section 23.04.092 Affordable Housing Required in the Coastal Zone

This section requires the replacement of existing dwelling units occupied by low and moderate income persons. Currently, there is one residence and eight mobile homes located on the property, each containing one dwelling unit. Therefore, there are a total of nine dwelling units in nine structures. However, none of the units are currently occupied

The Board of Supervisors has determined that this section does not apply to the demolition or conversion of ten or fewer dwelling units in two or more structures to condominium, cooperative, or similar form of ownership. However, this section does apply the demolition or conversion of one or more dwellings to a non-residential use which is not "coastal dependent". The currently proposed project does not include a request to authorize a future use or development of the property. Applicability of this section cannot be determined without knowing the proposed future use. Therefore, applicability of this section would need to be addressed in the subsequent development application.

Section 23.07.120 Local Coastal Program Area:

The project site is located within the California Coastal Zone as determined by the California Coastal Act of 1976 and is subject to the provisions of the Local Coastal Program.

Section 23.08.164g Mobilehome Parks:

Impact Report

Prior to conversion of a mobilehome park to another use or prior to closure of a mobile home park or cessation of use of the land as a mobilehome park, the entity proposing the change shall file a report on the impact of the "conversion, closure, or cessation of use on displaced mobilehome park residents." (CZLUO Section 23.08.164g and Government Code Section 65863.7). The impact report is also required to address the availability of adequate replacement housing in mobilehome parks and relocation parks. Information provided by the applicant shows that there were no residents residing in the mobilehome park at the date the application was filed. Since there were no residents in the park, no one was displaced. Further, at no time was the Planning Department contacted by residents concerning the closure of the park or the termination of tenancy. There is no evidence to refute the applicant's and prior owner's claim that each tenant sold or vacated their mobilehome voluntarily, under their own free will. This information demonstrates that there was no impact to displaced residents and that there was adequate replacement housing available.

Notice

As required by Government Code Section 65863.8, at least 30 days before the public hearing on the Development Plan, the Planning Department shall notify the applicant of the provisions of Section 798.56 of the Civil Code. This section requires the applicant to notify residents and mobilehome owners of the mobilehome park of the proposed change in use. The last tenant vacated the property on November 15, 2004 and the remaining mobilehomes are owned by the applicant. Therefore, there are no residents or mobilehome owners to notify of the closure.

2-4

A tenant who resides without a rental agreement will remain on the property for security purposes. This tenant is not required to be notified of the local hearing pursuant to Civil Code 798.56 since they are not considered a "homeowner". A "homeowner" is defined by Civil Code 798.9 as a person who has tenancy in a mobilehome park under a rental agreement. However, this tenant has been notified of this Development Plan application by virtue of the standard public notice provided to occupants within 100 feet of the development application.

COASTAL PLAN POLICIES: This project is in compliance with the Coastal Plan Policies. The most relevant policies are discussed below.

Environmentally Sensitive Habitats:

Policy 1: Land Uses Within or Adjacent to Environmentally Sensitive Habitats: The proposed project is consistent with this policy because it will not significantly disrupt the habitat, and there is no site disturbance.

Policy 2: Permit Requirement: The proposed project is consistent with this policy because there will be no significant impact on sensitive habitats, and the proposed project is consistent with the biological continuance of the habitat.

Policy 3: Habitat Restoration: The proposed project is consistent with this policy because there is no site disturbance.

Policy 20: Coastal Streams and Riparian Vegetation: The proposed project is consistent with this policy because there is no site disturbance associated with the project and it will not impact the natural hydrological system and ecological function of the coastal stream.

Policy 26: Riparian Vegetation: The proposed project is consistent with this policy because it does not involve the cutting or alteration of vegetation

Archeology

Policy 1: Protection of Archaeological Resources: The proposed project is consistent with this policy because there is no site disturbance associated with the project and it will not impact any known archaeological resources.

Does the project meet applicable Coastal Plan Policies: Yes, as conditioned

COMMUNITY ADVISORY GROUP COMMENTS: "Any approval to close trailer park does not imply approval on plans for future use."

AGENCY REVIEW:

Public Works- No concerns

Ag Commissioner- No response received

Cambria Community Services District – No objection to closure of mobilehome park

Cal Trans – No response received

California Coastal Commission – No response received

LEGAL LOT STATUS:

The lot was legally created by a recorded map at a time when that was a legal method of creating lots.

Staff report prepared by Martha Neder and reviewed by Kami Griffin

FINDINGS - EXHIBIT A

2-5

Environmental Determination

- A. The project qualifies for a Class 1 Categorical Exemption pursuant to CEQA Guidelines Section 15301 because the project involves the operation of existing private structures with no expansion of use.

Development Plan

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan because the use is an allowed use and as conditioned is consistent with all of the General Plan policies.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- D. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the mobilehome park closure does not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the closure of the existing mobilehome park will not conflict with the surrounding lands and uses.
- F. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project is located on Main Street, an arterial road, and will not include additional traffic.

Coastal Access

- G. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because the project is not adjacent to the coast and the project will not inhibit access to the coastal waters and recreation areas.

Sensitive Resource Area

- H. The development will not create significant adverse effects on the natural features of the site or vicinity that were the basis for the Sensitive Resource Area designation, and will preserve and protect such features through the site design, because no disturbance will occur.
- I. Natural features and topography have been considered in the design and siting of all proposed physical improvements because no disturbance will occur.
- J. The proposed clearing of topsoil, trees, is the minimum necessary to achieve safe and convenient access and siting of proposed structures, and will not create significant adverse effects on the identified sensitive resource, because no disturbance will occur.
- K. The soil and subsoil conditions are suitable for any proposed excavation and site preparation and drainage improvements have been designed to prevent soil erosion, and sedimentation of streams through undue surface runoff, because no disturbance will occur.

2-6

- L. There will be no significant negative impact on the identified sensitive habitat and the proposed use will be consistent with the biological continuance of the habitat.
- M. The proposed use will not significantly disrupt the habitat.

Archaeological Sensitive Area

- N. The site design and development incorporate adequate measures to ensure that archeological resources will be acceptably and adequately protected because there will be no disturbance.
- O. The site design and development cannot be feasibly changed to avoid intrusion into or disturbance of archaeological resources because as proposed there will be no disturbance.

EXHIBIT B - CONDITIONS OF APPROVAL

2-7

Approved Development

1. This approval authorizes the closure of the Rod and Reel mobilehome park.

Conditions required to be completed within one year of authorization

2. Within one year of authorization for closure of the mobilehome park, the applicant shall apply for the appropriate ~~development~~ permits for the physical improvements required for the closure of the park and for future use of the property.

On-going conditions of approval (valid for the life of the project)

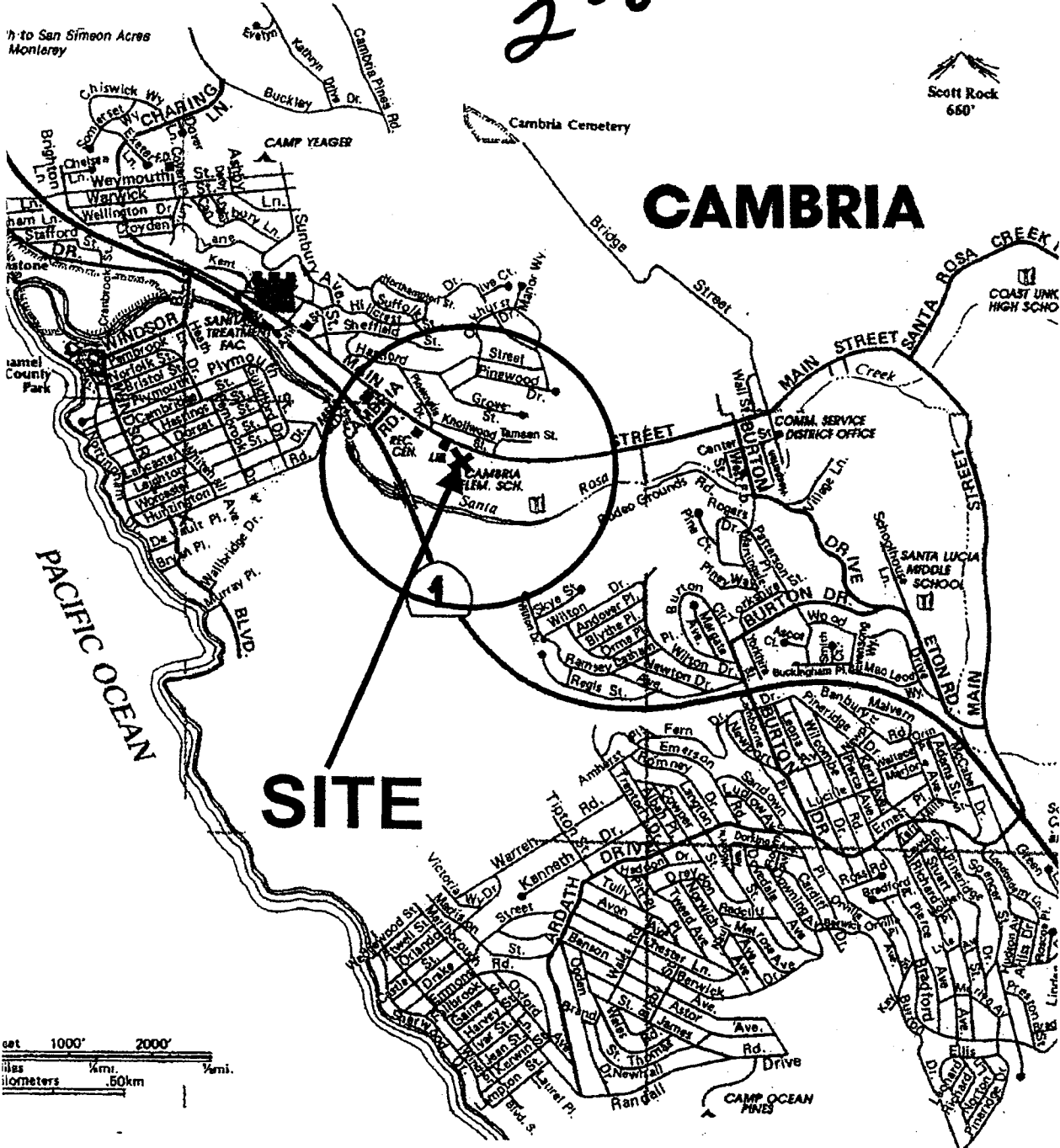
3. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
4. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Land Use Ordinance.

2-8

h to San Simeon Acres
Monterey

Scott Rock
660'

CAMBRIA



PROJECT

Conditional Use Permit
GFS Cambria LLC DRC2004-00176

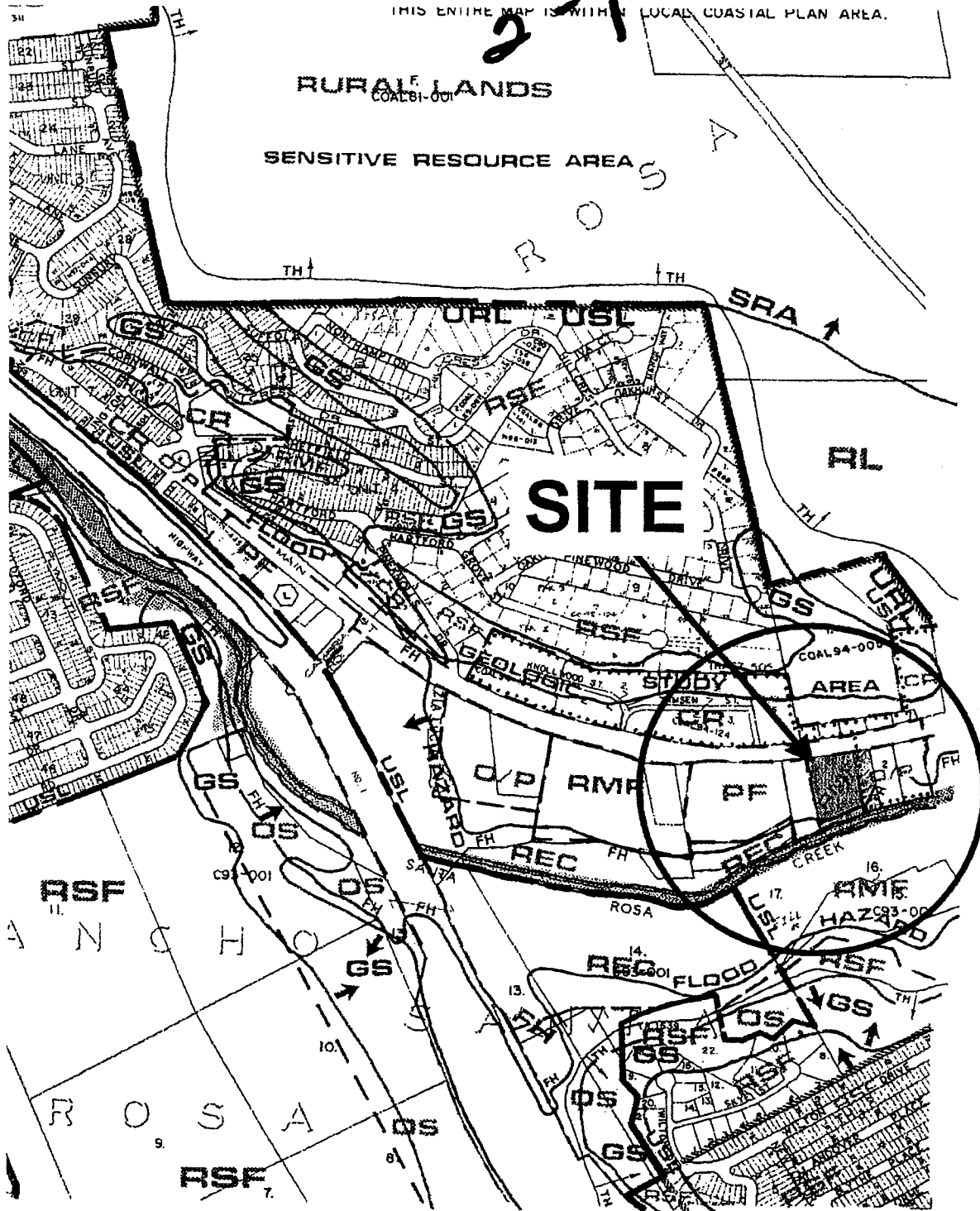


EXHIBIT

Vicinity Map

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING

THIS ENTIRE MAP IS WITHIN LOCAL COASTAL PLAN AREA.



PROJECT

Conditional Use Permit
GFS Cambria LLC DRC2004-00176



EXHIBIT

Land Use Category Map



2-11



PROJECT

Conditional Use Permit
GFS Cambria LLC DRC2004-00176



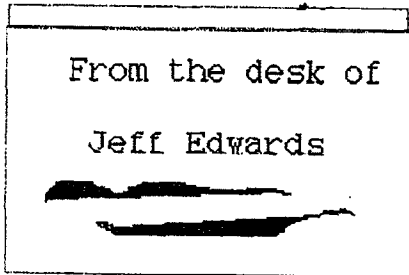
EXHIBIT

Aerial Photo

2.12

Attachment 1
Tenant Information

J.H. EDWARDS COMPANY A real property concern



2-13

**Fax
Transmission**

- ☐ Please call to confirm receipt
- ☐ Please respond by return fax
- ☐ Call only if transmission is incomplete

Date: April 15, 2005

To: Tammy L. Seale

Subject: DRC2004-00176 GFSCambria, LLC

Fax number: (805) 781-1242

From: Jeff Edwards

Our phone: (805) 528-1567

Our fax: (805) 528-4473

of pages including cover page: 3

Dear Tammy, thank you for your assistance regarding the above referenced Development Plan application. Attached please find the completed matrix as requested. The two (2) footnotes on the matrix help explain the situation regarding space number 16 which was the only coach not owned by our predecessor, Ray and Carolyn Connelly. For purposes of our current discussion I will assume the application date is February 16, 2005. For your information, our "due diligence" with respect to the purchase of the property began on, or about July, 2004. As you may know, the escrow closed in January, 2005, transferring the property to GFS Cambria, LLC. All tenants were on a month-to-month tenancy and vacated voluntarily with the last tenant in space number 3 leaving on November 15, 2004 (see letter included). The gentleman (Steve Cole) staying in space number 16 simply keeps an eye on things for us. No rent is paid by him and we do not pay him either. Please do not hesitate to contact me with any questions you may have. I will assume that the subject application will be heard by the County Planning Commission on May 12, 2005.

c- Steve Miller
Jim Buttery

attachments

P.O. BOX 6070 LOS OSOS 93412 (805) 528-1567 (FAX) 528-4473

DRC2004-00176 GFS Cambria
Development Plan/ Coastal Development Permit Application to close Mobile Home Park

Outstanding information as of April 12, 2005

Mobile Homes Currently at Rod Reel Trailer Park

Unit	Occupants at time of application	Name(s) of last occupant(s)	Tenure	Status of Last Occupant (Renter/Owner)	Date Acquired by Ray and Carolyn Connelly	Owner at time of application
1	Vacant	Kanter/ Lindsay	11/03- 7/04	Renter	28-Feb-03	GFS Cambria LLC
3	Vacant	Green	6/03- 11/04	Renter	9-Feb-03	GFS Cambria LLC
7	Vacant	Norried	6/04- 9/04	Renter	1988	GFS Cambria LLC
11	Vacant	As of 4/1/04		Renter	1998	GFS Cambria LLC
12	Vacant	Castaneda	3/03- 6/04	Renter	1994	GFS Cambria LLC
13	Vacant	As of 4/1/04		Renter	1980	GFS Cambria LLC
16	Steve Cole *	Goldie Waren **	1/88- 10/04	Owner	15-Oct-04	GFS Cambria LLC
17	Vacant	Safonov	2/00- 10/04	Renter	2002	GFS Cambria LLC

2.14

* Caretaker present since 12/04. No rental or lease agreement.

** Goldie Waren and Jim Tucker owned coach. Purchased by GFS Cambria, LLC 10/15/04.

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November 18, 2004

Susan M. Green
4337 Bridge St.
Cambria, CA 93428

Ray and Carolyn Connelly
c/o Manor Realty
728 Main Street
Cambria, CA 93428

Dear Mr. and Mrs. Connelly:

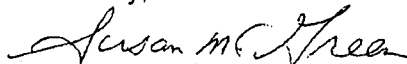
As you know, I occupied space #3 on the property located at 1460 Main Street in Cambria. My son and I had lived at that address since mid June of ~~the year~~ ²⁰⁰³. While our stay was brief, we did enjoy the time we lived there.

A better living situation became available, so we decided to take advantage of the opportunity. We certainly appreciate your hospitality and wish you the best in the future.

We are now happy to be moved to our new home and as you know the move was completed on November 15, 2004. It was somewhat strange being the last two people to reside on the property and it was a little lonely during the last couple of weeks.

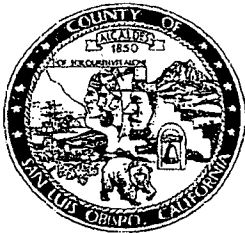
In closing, I wish to reiterate my thanks and please return my security deposit at your earliest opportunity to the address above.

Sincerely,


Susan M. Green

2-16

Attachment 2
Correspondence



2-17
SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

September 2, 2004

Mr. Ray Connelly
Connelly's Rod and Reel
1460 Main St.
Cambria, Ca. 93428

Dear Mr. Connelly:

I am writing in reference to an article in the Saturday, August 28th, edition of the Telegram Tribune. It is our understanding that the longtime use of your property is some mixture of mobile homes and recreational vehicles, used as permanent residences. According to information you provided for our mobile home park survey in 1991, the park was approximately 40 years old at that time and 22 spaces were occupied. The recent newspaper article gave the impression that you are in the process of changing the use of your property and residents are being asked to move.

The San Luis Obispo County Coastal Zone Land Use Ordinance Section 23.08.164g, sets forth criteria for conversion of mobile home parks to other uses. If the property qualifies as a mobile home park, a Development Plan application must be filed with the county prior to any action to convert the park. Conversion includes requiring the tenants to move, and removing the units, even if no other use is planned.

We want to make you aware that, in the absence of an approved Development Plan, asking or requiring residents to move from a mobile home park for the purpose of converting it to another use is a violation of the county ordinance. We recommend that you ask us to evaluate the park and your proposed project to determine if a Development Plan is required at this time. Failure to comply with the mobile home park conversion standards will significantly complicate any future application for other uses on the property. In addition, there are also State laws regulating conversion of mobile home parks. You may want to contact your attorney regarding compliance with State laws.

If you have any questions, please call me at 781-5154.

Sincerely,

John Busselle, Senior Planner
Housing and Economic Development Section

C: Rubin Mireles, State Department of Housing and Community Development
Art Trinidad, Department of Planning and Building, Code Enforcement Division

COUNTY GOVERNMENT CENTER • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600

EMAIL: planning@co.slo.ca.us • FAX: (805) 781-1242 • WEBSITE: <http://www.sloplanning.org>

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Connelly's Rod & Reel
1460 Main St.
Cambria, CA 93428
Mailing address
846 Anchor
Morro Bay, CA 93442

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9/30/04

John Busselle
Dept. of Planning & Building
Housing & Economic Development Section
County Government Center
San Luis Obispo, CA 93408

Dear Mr. Busselle:

We have only recently received your letter dated 9/2/04. We no longer live at the Cambria property. Please make note of our mailing address.

The newspaper article from 8/28/04 was in error on many of its statements. I'll not bother you to those fallacies at this time.

We are NOT doing any conversions on our property. We are SELLING the property.

If you have any questions, you can call me at 772-2302

Sincerely,

Ray Connelly



CC: Rubin Mireles, State Dept. of Housing & Community Development
Art Trinidad, Code Enforcement Division

ANDRE,
MORRIS
& BUTTERY

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2-19

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November 3, 2004

PETER R. ANDRE (1918-2000)
MICHAEL J. MORRIS
JAMES C. BUTTERY
DENNIS D. LAW
J. TODD MIROLLA
SCOTT W. WALL
KATHRYN M. EPPRIGHT
KEVIN D. MORRIS
WILLIAM V. DOUGLASS
JEAN A. ST. MARTIN
LISA LaBARBERA TOKE
MELISSA M. McGANN
BETH A. MARINO
JULIE CASEY MARTINEZ

2739 Santa Maria Way, Third floor
Post Office Box 1430
Santa Maria, CA 93456-1430

Telephone 805.937.1400
Facsimile 805.937.1444

1102 Laurel Lane
Post Office Box 730
San Luis Obispo, CA 93406-0730

Via Facsimile & U.S. Mail

John Busselle
Department of Planning and Building
County of San Luis Obispo
1050 Monterey Street, Room 310
San Luis Obispo, CA 93408

Re: 1460 Main Street, Cambria (Rod & Reel Trailer Park)

Dear Mr. Busselle:

Thank you for meeting with me last week. I received your voice mail that records of mobile home purchases by the Connellys since February, 2002 could be sufficient for your review. However, I have also discussed with the Connellys what records they maintained during their ownership of the property that they acquired in 1977. I am pleased to report that they can document their acquisition of mobile homes back to 1977, and in fact, they purchased one coach when they purchased the real property.

As I explained in our meeting, the Connellys adopted a policy of acquiring coaches with the long term intention of phasing out the mobile home park. Slowly but surely they were able to acquire the coaches until February 28, 2003, when only one remained that was not owned by them. At that point, under state law the property was no longer a mobile home park, because it did not meet the definition of a mobile home park under *Civil Code* Section 798.4. Nonetheless, during the period of time that the Connellys were acquiring coaches, they would rent those that were habitable on a month-to-month basis. In addition recreational vehicles continued to use the property with stays limited to six (6) months or less. In the last year, however, nearly all of their tenants have vacated the property. People moved voluntarily for a variety of reasons. In fact, the last recreational vehicles vacated the property over the weekend.

At this point, the Connellys have nearly completed 'going out of business as a mobile home park.' While eight (8) coaches remain on site, there are only two human beings occupying the property at this time, in Unit #3; and they have given notice that they will be vacating by November 15th. Presently, it can be anticipated that the owners will apply to the State to revoke their license to operate the mobile home park in the next few months. However, requirements under State Law must be met to complete this formality. The Connellys have not prepared any plans and have no intention of developing the property. They only wish to sell it for a fair price;

2.20

John Busselle
November 3, 2004
Page 2

one that reflects their long term ownership of the property and their deliberate acquisition of coaches to the point that the site is no longer a mobile home park.


In support of this position, the Connellys' records disclose the following:

Date Acquired	Space #	Date Removed
1977	5	2002—January 16th
1980	13	Remains on site
1988	7	Remains on site
1994	12	Remains on site
1998	11	Remains on site
1998 Acquired at public auction	14	2001—January 14 th — salvaged to landfill
2002	17	Remains on site
2003—February 9th	3	Remains on site
2003—February 28 th	1	Remains on site

The Connellys respectfully request that you determine that the property does not constitute a mobile home park within the meaning of Coastal Land Use Ordinance Section 23.08.164(g), and further confirm that no development plan is required from them.

Please call me if you have any questions whatsoever.

Very truly yours,


James C. Buttery

JCB/sf

cc: Tim McNulty (San Luis Obispo County Counsel)
Ray and Carolyn Connelly



2-21
SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

December 17, 2004

Jim Buttery
Andre Morris and Buttery
1102 Laurel Lane
P.O. Box 1430
San Luis Obispo, Ca. 93406-0730

Re: Connelly's Rod and Reel Mobilehome Park

Dear Mr. Buttery:

Thank you for the letter dated November 3, 2004, clarifying the situation with the mobile home park. It appears that the Connelly's have planned on phasing out the park for many years and have moved in that direction by acquiring coaches from residents. As noted, their last acquisitions were in February of 2003. At that time only one owner occupied coach remained.

On my site visit to the property on December 8th, the park appeared unoccupied and was fenced at the street. From the street, I was able to count 7 remaining coaches. At this time it appears that no coaches or spaces are being rented. However, as your letter states, as recently as early February of 2003, three spaces were rented (two that were acquired and one that was never acquired) for mobile home units. Therefore, as recently as February of 2003, the park met the State definition of a mobile home park. In addition, it is my understanding from talking to representatives from the State Department of Housing and Community Development, that the site is registered as a mobile home park for 10 mobile homes.

The San Luis Obispo County Coastal Zone Land Use Ordinance Section 23.08.164g, sets forth criteria for conversion of mobile home parks to other uses. If the property qualifies as a mobile home park, a Development Plan application must be filed with the county prior to any action to convert the park. Conversion includes requiring the tenants to move, and removing the units, even if no other use is planned.

It is clear from your letter that the property owner has intended to phase out the park. The ordinance is also clear that conversion of a mobile home park requires the filing of a Development Plan application with this department with the applicable reports as required by State law. Whether or not the site is currently a mobile home park by definition is arguable. However, as recently as early February of 2003, it was a park and the required application should have been filed prior to closure.

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I discussed the situation with members of our management staff. It is our view that the property is currently in violation of the Coastal Zone Land Use Ordinance Section 23.08.164g. This violation can be resolved by the filing of the appropriate application as previously noted. Applications for other uses or amendments to the general plan cannot be processed until the violation is resolved.

I would be happy to meet with you and discuss the application and contents of the required Tenant Impact Report. I am out of the office the week of December 20th and back on the 27th. I will need to have a person from our coastal team at the meeting since they will be processing any application.

If you have additional questions, please call me at 781-5154 or e-mail me at jbusselle@co.slo.ca.us

Sincerely,

A handwritten signature in dark ink, appearing to read "John Busselle", with a long horizontal flourish extending to the right.

John Busselle
Housing and Economic Development Section

C: Art Trinidad, Department of Planning and Building, Code Enforcement Division

ANDRE,
MORRIS
& BUTTERY
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2-23

December 30, 2004

PETER R. ANDRE (1918-2000)
MICHAEL J. MORRIS
JAMES C. BUTTERY
DENNIS D. LAW
J. TODD MIROLA
SCOTT W. WALL
KATHRYN M. EPPRIGHT
KEVIN D. MORRIS
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Telephone 805.937.1400
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1102 Laurel Lane
Post Office Box 730
San Luis Obispo, CA 93406-0730

Via Facsimile & U.S. Mail

John Busselle
Department of Planning and Building
County of San Luis Obispo
1194 Pacific Street
San Luis Obispo, CA 93408

Re: Rod & Reel Trailer Park

Dear Mr. Busselle:

I am in receipt of your letter dated December 17th that with the speed of the Postal System was not delivered until December 23rd. Thank you for meeting with me on December 29th to discuss this matter further. I appreciate your candor and that of your colleague, Martha Neder.

As I explained, I believe that the County's position is based on a false premise. The subject ordinance, 23.08.164(g), does not on its face apply to this situation, because the property owners are not proposing "new use." Rather, they have been endeavoring to cease the use as a mobile home park. They simply want to go out of the mobile home business, and frankly the language of the ordinance does not reference "closure" nor does it reference "cessation of use." Absent a modification of the ordinance that clarifies its applicability to the "cessation of use" as a mobile home park, it is our position that the ordinance simply does not apply.

In fact your letter mentions that "conversion includes requiring tenants to move, and removing the units, even if no other use is planned." First, no mobile home owner was required to sell their coach. They voluntarily sold their coaches. Second, no mobile home owner was required to vacate from the property. They left voluntarily except for those who passed away. With regard to whether any tenants (including those who were renting a coach) were required to move, it is my understanding that even those people left voluntarily.

While you suggested strongly in our meeting that the property owner should submit a development plan application to cease the mobile home park use, as described above I pointed out that both the language of the Ordinance and the prior interpretation of the Ordinance by the Planning Department did not support this conclusion. Rather than spending time in front of the Planning Commission with an application that describes events that occurred literally years, and

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2-24

John Busselle
December 30, 2004
Page 2

in some instances more than a decade ago, it would be more useful to spend that same time clarifying the language of the Ordinance. If the language of 23.08.164(g) was modified to define "change of use" to include "cessation of use" and "closure" of a mobilehome park, the public, including mobilehome park owners, would be clearly informed of the requirements that they must meet if they wished to discontinue their existing use.

I do want to make you aware of one unexpected change in circumstance that occurred since my letter dated November 3, 2004, was sent. Because of liability and insurance reasons, the property was fenced off, and for the same reasons a single tenant was installed. That tenant is in place at Space 16 and is the de facto caretaker of the property. Thus, while the tenant was placed for multiple reasons, it appears to me that there is no longer a "violation."

For the reasons I explained to you and as I have set forth in this letter, the Connelly's whole heartedly disagree with the County's position. It is not justified either factually or legally. They do not believe that there was, or is, a violation of Section 23.08.164(g) of your ordinance. My clients respectfully request that the Planning Department reconsider its decision as set forth in your letter of December 17th. It is my understanding that you will present this at your next meeting on January 5th.

Thank you for your time and your assistance in this matter.

Very truly yours,



James C. BATTERY

JCB/sf

cc: Ray and Carolyn Connelly
Tim McNulty

2.25

Attachment 3
Civil Code Section 798

CIVIL CODE
SECTION 798-798.14

2-26

798. This chapter shall be known and may be cited as the "Mobilehome Residency Law."

798.1. Unless the provisions or context otherwise requires, the following definitions shall govern the construction of this chapter.

798.2. "Management" means the owner of a mobilehome park or an agent or representative authorized to act on his behalf in connection with matters relating to a tenancy in the park.

798.3. (a) "Mobilehome" is a structure designed for human habitation and for being moved on a street or highway under permit pursuant to Section 35790 of the Vehicle Code. Mobilehome includes a manufactured home, as defined in Section 18007 of the Health and Safety Code, and a mobilehome, as defined in Section 18008 of the Health and Safety Code, but, except as provided in subdivision (b), does not include a recreational vehicle, as defined in Section 799.29 of this code and Section 18010 of the Health and Safety Code or a commercial coach as defined in Section 18001.8 of the Health and Safety Code.

(b) "Mobilehome," for purposes of this chapter, other than Section 798.73, also includes trailers and other recreational vehicles of all types defined in Section 18010 of the Health and Safety Code, other than motor homes, truck campers, and camping trailers, which are used for human habitation if the occupancy criteria of either paragraph (1) or (2), as follows, are met:

(1) The trailer or other recreational vehicle occupies a mobilehome site in the park, on November 15, 1992, under a rental agreement with a term of one month or longer, and the trailer or other recreational vehicle occupied a mobilehome site in the park prior to January 1, 1991.

(2) The trailer or other recreational vehicle occupies a mobilehome site in the park for nine or more continuous months commencing on or after November 15, 1992.

"Mobilehome" does not include a trailer or other recreational vehicle located in a recreational vehicle park subject to Chapter 2.6 (commencing with Section 799.20), except as otherwise provided in subdivision (b) of Section 799.45.

798.4. "Mobilehome park" is an area of land where two or more mobilehome sites are rented, or held out for rent, to accommodate mobilehomes used for human habitation.

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798.6. "Park" is a manufactured housing community as defined in Section 18801 of the Health and Safety Code, or a mobilehome park.

798.7. "New Construction" means any newly constructed spaces initially held out for rent after January 1, 1990.

798.8. "Rental agreement" is an agreement between the management and the homeowner establishing the terms and conditions of a park tenancy. A lease is a rental agreement.

→ 798.9. "Homeowner" is a person who has a tenancy in a mobilehome park under a rental agreement.

798.10. "Change of use" means a use of the park for a purpose other than the rental, or the holding out for rent, of two or more mobilehome sites to accommodate mobilehomes used for human habitation, and does not mean the adoption, amendment, or repeal of a park rule or regulation. A change of use may affect an entire park or any portion thereof. "Change of use" includes, but is not limited to, a change of the park or any portion thereof to a condominium, stock cooperative, planned unit development, or any form of ownership wherein spaces within the park are to be sold.

798.11. "Resident" is a homeowner or other person who lawfully occupies a mobilehome.

798.12. "Tenancy" is the right of a homeowner to the use of a site within a mobilehome park on which to locate, maintain, and occupy a mobilehome, site improvements, and accessory structures for human habitation, including the use of the services and facilities of the park.

798.13. (a) This chapter does not apply to any area owned, operated, or maintained by the state for the purpose of providing employee housing or space for a mobilehome owned or occupied by an employee of the state.

(b) Notwithstanding subdivision (a), a state employer shall provide the occupant of a privately owned mobilehome that is situated in an employee housing area owned, operated, or maintained by the state, and that is occupied by a state employee by agreement with his or her state employer and subject to the terms and conditions of that state employment, with a minimum of 60-days' notice prior to terminating the tenancy for any reason.

2.28

798.14. Unless otherwise provided, all notices required by this chapter shall be either delivered personally to the homeowner or deposited in the United States mail, postage prepaid, addressed to the homeowner at his or her site within the mobilehome park.

CIVIL CODE
SECTION 798.55-798.61

2-29

798.55. (a) The Legislature finds and declares that, because of the high cost of moving mobilehomes, the potential for damage resulting therefrom, the requirements relating to the installation of mobilehomes, and the cost of landscaping or lot preparation, it is necessary that the owners of mobilehomes occupied within mobilehome parks be provided with the unique protection from actual or constructive eviction afforded by the provisions of this chapter.

(b) (1) The management may not terminate or refuse to renew a tenancy, except for a reason specified in this article and upon the giving of written notice to the homeowner, in the manner prescribed by Section 1162 of the Code of Civil Procedure, to sell or remove, at the homeowner's election, the mobilehome from the park within a period of not less than 60 days, which period shall be specified in the notice. A copy of this notice shall be sent to the legal owner, as defined in Section 18005.8 of the Health and Safety Code, each junior lienholder, as defined in Section 18005.3 of the Health and Safety Code, and the registered owner of the mobilehome, if other than the homeowner, by United States mail within 10 days after notice to the homeowner. The copy may be sent by regular mail or by certified or registered mail with return receipt requested, at the option of the management.

(2) The homeowner shall pay past due rent and utilities upon the sale of a mobilehome pursuant to paragraph (1).

(c) If the homeowner has not paid the rent due within three days after notice to the homeowner, and if the first notice was not sent by certified or registered mail with return receipt requested, a copy of the notice shall again be sent to the legal owner, each junior lienholder, and the registered owner, if other than the homeowner, by certified or registered mail with return receipt requested within 10 days after notice to the homeowner. Copies of the notice shall be addressed to the legal owner, each junior lienholder, and the registered owner at their addresses, as set forth in the registration card specified in Section 18091.5 of the Health and Safety Code.

(d) The resident of a mobilehome that remains in the mobilehome park after service of the notice to sell or remove the mobilehome shall continue to be subject to this chapter and the rules and regulations of the park, including rules regarding maintenance of the space.

(e) No lawful act by the management to enforce this chapter or the rules and regulations of the park may be deemed or construed to waive or otherwise affect the notice to remove the mobilehome.

798.56. A tenancy shall be terminated by the management only for one or more of the following reasons:

(a) Failure of the homeowner or resident to comply with a local ordinance or state law or regulation relating to mobilehomes within a reasonable time after the homeowner receives a notice of noncompliance from the appropriate governmental agency.

(b) Conduct by the homeowner or resident, upon the park premises, that constitutes a substantial annoyance to other homeowners or residents.

(c) (1) Conviction of the homeowner or resident for prostitution, for a violation of subdivision (d) of Section 243, paragraph (2) of subdivision (a), or subdivision (b), of Section 245, Section 288, or Section 451, of the Penal Code, or a felony controlled substance

offense, if the act resulting in the conviction was committed anywhere on the premises of the mobilehome park, including, but not limited to, within the homeowner's mobilehome.

(2) However the tenancy may not be terminated for the reason specified in this subdivision if the person convicted of the offense has permanently vacated, and does not subsequently reoccupy, the mobilehome.

(d) Failure of the homeowner or resident to comply with a reasonable rule or regulation of the park that is part of the rental agreement or any amendment thereto.

No act or omission of the homeowner or resident shall constitute a failure to comply with a reasonable rule or regulation unless and until the management has given the homeowner written notice of the alleged rule or regulation violation and the homeowner or resident has failed to adhere to the rule or regulation within seven days. However, if a homeowner has been given a written notice of an alleged violation of the same rule or regulation on three or more occasions within a 12-month period after the homeowner or resident has violated that rule or regulation, no written notice shall be required for a subsequent violation of the same rule or regulation.

Nothing in this subdivision shall relieve the management from its obligation to demonstrate that a rule or regulation has in fact been violated.

(e) (1) Nonpayment of rent, utility charges, or reasonable incidental service charges; provided that the amount due has been unpaid for a period of at least five days from its due date, and provided that the homeowner shall be given a three-day written notice subsequent to that five-day period to pay the amount due or to vacate the tenancy. For purposes of this subdivision, the five-day period does not include the date the payment is due. The three-day written notice shall be given to the homeowner in the manner prescribed by Section 1162 of the Code of Civil Procedure. A copy of this notice shall be sent to the persons or entities specified in subdivision (b) of Section 798.55 within 10 days after notice is delivered to the homeowner. If the homeowner cures the default, the notice need not be sent. The notice may be given at the same time as the 60 days' notice required for termination of the tenancy. A three-day notice given pursuant to this subdivision shall contain the following provisions printed in at least 12-point boldface type at the top of the notice, with the appropriate number written in the blank:

"Warning: This notice is the (insert number) three-day notice for nonpayment of rent, utility charges, or other reasonable incidental services that has been served upon you in the last 12 months. Pursuant to Civil Code Section 798.56 (e) (5), if you have been given a three-day notice to either pay rent, utility charges, or other reasonable incidental services or to vacate your tenancy on three or more occasions within a 12-month period, management is not required to give you a further three-day period to pay rent or vacate the tenancy before your tenancy can be terminated."

(2) Payment by the homeowner prior to the expiration of the three-day notice period shall cure a default under this subdivision. If the homeowner does not pay prior to the expiration of the three-day notice period, the homeowner shall remain liable for all payments due up until the time the tenancy is vacated.

(3) Payment by the legal owner, as defined in Section 18005.8 of the Health and Safety Code, any junior lienholder, as defined in Section 18005.3 of the Health and Safety Code, or the registered owner, as defined in Section 18009.5 of the Health and Safety Code, if other than the homeowner, on behalf of the homeowner prior to the expiration of 30 calendar days following the mailing of the notice to the legal owner, each junior lienholder, and the registered owner provided in subdivision (b) of Section 798.55, shall cure a default

under this subdivision with respect to that payment.

(4) Cure of a default of rent, utility charges, or reasonable incidental service charges by the legal owner, any junior lienholder, or the registered owner, if other than the homeowner, as provided by this subdivision, may not be exercised more than twice during a 12-month period.

(5) If a homeowner has been given a three-day notice to pay the amount due or to vacate the tenancy on three or more occasions within the preceding 12-month period and each notice includes the provisions specified in paragraph (1), no written three-day notice shall be required in the case of a subsequent nonpayment of rent, utility charges, or reasonable incidental service charges.

In that event, the management shall give written notice to the homeowner in the manner prescribed by Section 1162 of the Code of Civil Procedure to remove the mobilehome from the park within a period of not less than 60 days, which period shall be specified in the notice. A copy of this notice shall be sent to the legal owner, each junior lienholder, and the registered owner of the mobilehome, if other than the homeowner, as specified in paragraph (b) of Section 798.55, by certified or registered mail, return receipt requested, within 10 days after notice is sent to the homeowner.

(6) When a copy of the 60 days' notice described in paragraph (5) is sent to the legal owner, each junior lienholder, and the registered owner of the mobilehome, if other than the homeowner, the default may be cured by any of them on behalf of the homeowner prior to the expiration of 30 calendar days following the mailing of the notice, if all of the following conditions exist:

(A) A copy of a three-day notice sent pursuant to subdivision (b) of Section 798.55 to a homeowner for the nonpayment of rent, utility charges, or reasonable incidental service charges was not sent to the legal owner, junior lienholder, or registered owner, of the mobilehome, if other than the homeowner, during the preceding 12-month period.

(B) The legal owner, junior lienholder, or registered owner of the mobilehome, if other than the homeowner, has not previously cured a default of the homeowner during the preceding 12-month period.

(C) The legal owner, junior lienholder or registered owner, if other than the homeowner, is not a financial institution or mobilehome dealer.

If the default is cured by the legal owner, junior lienholder, or registered owner within the 30-day period, the notice to remove the mobilehome from the park described in paragraph (5) shall be rescinded.

(f) Condemnation of the park.

→ (g) Change of use of the park or any portion thereof, provided:

(1) The management gives the homeowners at least 15 days' written notice that the management will be appearing before a local governmental board, commission, or body to request permits for a change of use of the mobilehome park.

(2) After all required permits requesting a change of use have been approved by the local governmental board, commission, or body, the management shall give the homeowners six months' or more written notice of termination of tenancy.

If the change of use requires no local governmental permits, then notice shall be given 12 months or more prior to the management's determination that a change of use will occur. The management in the notice shall disclose and describe in detail the nature of the change of use.

(3) The management gives each proposed homeowner written notice thereof prior to the inception of his or her tenancy that the management is requesting a change of use before local governmental bodies or that a change of use request has been granted.

(4) The notice requirements for termination of tenancy set forth in Sections 798.56 and 798.57 shall be followed if the proposed

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change actually occurs.

(5) A notice of a proposed change of use given prior to January 1, 1980, that conforms to the requirements in effect at that time shall be valid. The requirements for a notice of a proposed change of use imposed by this subdivision shall be governed by the law in effect at the time the notice was given.

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(h) The report required pursuant to subdivisions (b) and (i) of Section 65863.7 of the Government Code shall be given to the homeowners or residents at the same time that notice is required pursuant to subdivision (g) of this section.

(i) For purposes of this section, "financial institution" means a state or national bank, state or federal savings and loan association or credit union, or similar organization, and mobilehome dealer as defined in Section 18002.6 of the Health and Safety Code or any other organization that, as part of its usual course of business, originates, owns, or provides loan servicing for loans secured by a mobilehome.

798.56a. (a) Within 60 days after receipt of, or no later than 65 days after the mailing of, the notice of termination of tenancy pursuant to any reason provided in Section 798.56, the legal owner, if any, and each junior lienholder, if any, shall notify the management in writing of at least one of the following:

(1) Its offer to sell the obligation secured by the mobilehome to the management for the amount specified in its written offer. In that event, the management shall have 15 days following receipt of the offer to accept or reject the offer in writing. If the offer is rejected, the person or entity that made the offer shall have 10 days in which to exercise one of the other options contained in this section and shall notify management in writing of its choice.

(2) Its intention to foreclose on its security interest in the mobilehome.

(3) Its request that the management pursue the termination of tenancy against the homeowner and its offer to reimburse management for the reasonable attorney's fees and court costs incurred by the management in that action. If this request and offer are made, the legal owner, if any, or junior lienholder, if any, shall reimburse the management the amount of reasonable attorney's fees and court costs, as agreed upon by the management and the legal owner or junior lienholder, incurred by the management in an action to terminate the homeowner's tenancy, on or before the earlier of (A) the 60th calendar day following receipt of written notice from the management of the aggregate amount of those reasonable attorney's fees and costs or (B) the date the mobilehome is resold.

(b) A legal owner, if any, or junior lienholder, if any, may sell the mobilehome within the park to a third party and keep the mobilehome on the site within the mobilehome park until it is resold only if all of the following requirements are met:

(1) The legal owner, if any, or junior lienholder, if any, notifies management in writing of the intention to exercise either option described in paragraph (2) or (3) of subdivision (a) within 60 days following receipt of, or no later than 65 days after the mailing of, the notice of termination of tenancy and satisfies all of the responsibilities and liabilities of the homeowner owing to the management for the 90 days preceding the mailing of the notice of termination of tenancy and then continues to satisfy these responsibilities and liabilities as they accrue from the date of the mailing of that notice until the date the mobilehome is resold.

(2) Within 60 days following receipt of, or no later than 65 days after the mailing of, the notice of termination of tenancy, the legal owner or junior lienholder commences all repairs and necessary corrective actions so that the mobilehome complies with park rules and regulations in existence at the time the notice of termination of

tenancy was given as well as the health and safety standards specified in Sections 18550, 18552, and 18605 of the Health and Safety Code, and completes these repairs and corrective actions within 90 calendar days of that notice, or before the date that the mobilehome is sold, whichever is earlier.

(3) The legal owner, if any, or junior lienholder, if any, complies with the requirements of Article 7 (commencing with Section 798.70) as it relates to the transfer of the mobilehome to a third party.

(c) For purposes of subdivision (b), the "homeowner's responsibilities and liabilities" means all rents, utilities, reasonable maintenance charges of the mobilehome and its premises, and reasonable maintenance of the mobilehome and its premises pursuant to existing park rules and regulations.

(d) If the homeowner files for bankruptcy, the periods set forth in this section are tolled until the mobilehome is released from bankruptcy.

(e) Notwithstanding any other provision of law, including, but not limited to, Section 18099.5 of the Health and Safety Code, if neither the legal owner nor a junior lienholder notifies the management of its decision pursuant to subdivision (a) within the period allowed, or performs as agreed within 30 days, or if a registered owner of a mobilehome, that is not encumbered by a lien held by a legal owner or a junior lienholder, fails to comply with a notice of termination and is either legally evicted or vacates the premises, the management may either remove the mobilehome from the premises and place it in storage or store it on its site. In this case, notwithstanding any other provision of law, the management shall have a warehouseman's lien in accordance with Section 7209 of the Commercial Code against the mobilehome for the costs of dismantling and moving, if appropriate, as well as storage, that shall be superior to all other liens, except the lien provided for in Section 18116.1 of the Health and Safety Code, and may enforce the lien pursuant to Section 7210 of the Commercial Code either after the date of judgment in an unlawful detainer action or after the date the mobilehome is physically vacated by the resident, whichever occurs earlier. Upon completion of any sale to enforce the warehouseman's lien in accordance with Section 7210 of the Commercial Code, the management shall provide the purchaser at the sale with evidence of the sale, as shall be specified by the Department of Housing and Community Development, that shall, upon proper request by the purchaser of the mobilehome, register title to the mobilehome to this purchaser, whether or not there existed a legal owner or junior lienholder on this title to the mobilehome.

(f) All written notices required by this section shall be sent to the other party by certified or registered mail with return receipt requested.

(g) Satisfaction, pursuant to this section, of the homeowner's accrued or accruing responsibilities and liabilities shall not cure the default of the homeowner.

798.57. The management shall set forth in a notice of termination, the reason relied upon for the termination with specific facts to permit determination of the date, place, witnesses, and circumstances concerning that reason. Neither reference to the section number or a subdivision thereof, nor a recital of the language of this article will constitute compliance with this section.

798.58. Tenancy may only be terminated for reasons contained in Section 798.56, and a tenancy may not be terminated for the purpose

of making a homeowner's site available for a person who purchased or proposes to purchase, or rents or proposes to rent, a mobilehome from the owner of the park or the owner's agent.

798.59. A homeowner shall give written notice to the management of not less than 60 days before vacating his or her tenancy.

798.60. The provisions of this article shall not affect any rights or proceedings set forth in Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure except as otherwise provided herein.

798.61. (a) (1) As used in this section, "abandoned mobilehome" means a mobilehome about which all of the following are true:

(A) It is located in a mobilehome park on a site for which no rent has been paid to the management for the preceding 60 days.

(B) It is unoccupied.

(C) A reasonable person would believe it to be abandoned.

(2) For purposes of this section:

(A) "Mobilehome" shall include a trailer coach, as defined in Section 635 of the Vehicle Code, or a recreational vehicle, as defined in Section 18010 of the Health and Safety Code, if the trailer coach or recreational vehicle also satisfies the requirements of paragraph (1), including being located on any site within a mobilehome park, even if the site is in a separate designated section pursuant to Section 18215 of the Health and Safety Code.

(B) "Abandoned mobilehome" shall include a mobilehome that is uninhabitable because of its total or partial destruction that cannot be rehabilitated, if the mobilehome also satisfies the requirements of paragraph (1).

(b) After determining a mobilehome in a mobilehome park to be an abandoned mobilehome, the management shall post a notice of belief of abandonment on the mobilehome for not less than 30 days, and shall deposit copies of the notice in the United States mail, postage prepaid, addressed to the homeowner at the last known address and to any known registered owner, if different from the homeowner, and to any known holder of a security interest in the abandoned mobilehome. This notice shall be mailed by registered or certified mail with a return receipt requested.

(c) Thirty or more days following posting pursuant to subdivision (b), the management may file a petition in the superior court in the county in which the mobilehome park is located, for a judicial declaration of abandonment of the mobilehome. A proceeding under this subdivision is a limited civil case. Copies of the petition shall be served upon the homeowner, any known registered owner, and any known person having a lien or security interest of record in the mobilehome by posting a copy on the mobilehome and mailing copies to those persons at their last known addresses by registered or certified mail with a return receipt requested in the United States mail, postage prepaid.

(d) (1) Hearing on the petition shall be given precedence over other matters on the court's calendar.

(2) If, at the hearing, the petitioner shows by a preponderance of the evidence that the criteria for an abandoned mobilehome has been satisfied and no party establishes an interest therein at the hearing, the court shall enter a judgment of abandonment, determine the amount of charges to which the petitioner is entitled, and award attorney's fees and costs to the petitioner. For purposes of this subdivision, an interest in the mobilehome shall be established by evidence of a right to possession of the mobilehome or a security or

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ownership interest in the mobilehome.

(3) A default may be entered by the court clerk upon request of the petitioner, and a default judgment shall be thereupon entered, if no responsive pleading is filed within 15 days after service of the petition by mail.

(e) (1) Within 10 days following a judgment of abandonment, the management shall enter the abandoned mobilehome and complete an inventory of the contents and submit the inventory to the court.

(2) During this period the management shall post and mail notice of intent to sell the abandoned mobilehome and its contents under this section, and announcing the date of sale, in the same manner as provided for the notice of determination of abandonment under subdivision (b).

(3) At any time prior to the sale of a mobilehome under this section, any person having a right to possession of the mobilehome may recover and remove it from the premises upon payment to the management of all rent or other charges due, including reasonable costs of storage and other costs awarded by the court. Upon receipt of this payment and removal of the mobilehome from the premises pursuant to this paragraph, the management shall immediately file an acknowledgment of satisfaction of judgment pursuant to Section 724.030 of the Code of Civil Procedure.

(f) Following the judgment of abandonment, but not less than 10 days following the notice of sale specified in subdivision (e), the management may conduct a public sale of the abandoned mobilehome and its contents. The management may bid at the sale and shall have the right to offset its bids to the extent of the total amount due it under this section. The proceeds of the sale shall be retained by the management, but any unclaimed amount thus retained over and above the amount to which the management is entitled under this section shall be deemed abandoned property and shall be paid into the treasury of the county in which the sale took place within 30 days of the date of the sale. The former homeowner or any other owner may claim any or all of that unclaimed amount within one year from the date of payment to the county by making application to the county treasurer or other official designated by the county. If the county pays any or all of that unclaimed amount to a claimant, neither the county nor any officer or employee of the county is liable to any other claimant as to the amount paid.

(g) Within 30 days of the date of the sale, the management shall submit to the court an accounting of the moneys received from the sale and the disposition of the money and the items contained in the inventory submitted to the court pursuant to subdivision (e).

(h) The management shall provide the purchaser at the sale with a copy of the judgment of abandonment and evidence of the sale, as shall be specified by the State Department of Housing and Community Development or the Department of Motor Vehicles, which shall register title in the abandoned mobilehome to the purchaser upon presentation thereof. The sale shall pass title to the purchaser free of any prior interest, including any security interest or lien, except the lien provided for in Section 18116.1 of the Health and Safety Code, in the abandoned mobilehome.

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Attachment 4

Government code 65863.7

GOVERNMENT CODE

PUD was inconsistent with general zoning ordinance, and defeat of referendum zoning did not restore a previous zoning but instead simply preserved the property to continue as unincorporated. City of Pleasanton (App. 1 Dist. 675, 89 Cal.App.4th 1032. Zoning

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to approve referendum that would zoning of property for a low density development (PUD) was neither a zoning ordinance nor a referendum; electorate did not change city's property's land use designation to preserve of needed housing, and defeat of referendum maintained the status quo. Merritt v. City of Pleasanton (App. 1 Dist. 2001) 107 Cal.Rptr.2d 675, 30 Cal.App.4th 136

exercised its referendum power in measure that would have approved property for a low density residential development (PUD). Merritt v. City of Pleasanton (App. 1 Dist. 2001) 107 Cal.Rptr.2d 675, 30 Cal.App.4th 136

housing needs; reduction of

or programs of adequate sites graph (1) of subdivision (c) of subdivision pursuant to Section 65584,

judicial, or legislative action, by parcel to a lower residential density of Housing and Community Development Code 10.6 (commencing with Section 10.6.1) written findings supported by

the housing element.

to accommodate the jurisdiction

remaining sites in the housing of the regional housing need parcel if it identifies sufficient residential density in the jurisdiction so

that may restrict or limit the

in violation of this section, the using development, reasonable cases in which the court finds that court finds that the action was 2007, and as of that date is no earlier than January 1, 2007, deletes or extends

solely responsible for compliance with subdivision (a) application, as submitted, a document not being adequate to conform to Section 65584. In that event, the applicant shall be required to comply with this section.

by asterisks * * *

GOVERNMENT CODE

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§ 65863.7

The submission of an application for purposes of this subdivision does not depend on the application being deemed complete or being accepted by the city, county, or city and county.

(g) This section shall not be construed to apply to parcels that, prior to January 1, 2003, were either (1) subject to a development agreement, or (2) parcels for which an application for a subdivision map had been submitted.

(Added by Stats.2002, c. 706 (A.B.2292), § 1. Amended by Stats.2004, c. 10 (A.B.1192), § 1, eff. Jan. 22, 2004.)

Historical and Statutory Notes

2004 Legislation

Stats.2004, c. 10 (A.B.1192), added subds. (f) and (g).

Section 2 of Stats.2004, c. 10 (A.B.1192), provides:

"SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution

and shall go into immediate effect. The facts constituting the necessity are:

"In order to provide housing for California residents and to clarify that local governments should not unnecessarily condition development projects, it is necessary that this act take effect immediately."

§ 65863.7. Mobilehome park; conversion, closure or cessation; impact report; notice to residents; hearing; bankruptcy exception; fees; application of section

(a) Prior to the conversion of a mobilehome park to another use, except pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7), or prior to closure of a mobilehome park or cessation of use of the land as a mobilehome park, the person or entity proposing the change in use shall file a report on the impact of the conversion, closure, or cessation of use upon the displaced residents of the mobilehome park to be converted or closed. In determining the impact of the conversion, closure, or cessation of use on displaced mobilehome park residents, the report shall address the availability of adequate replacement housing in mobilehome parks and relocation costs.

(b) The person proposing the change in use shall provide a copy of the report to a resident of each mobilehome in the mobilehome park at least 15 days prior to the hearing, if any, on the impact report by the advisory agency, or if there is no advisory agency, by the legislative body.

(c) When the impact report is filed prior to the closure or cessation of use, the person or entity proposing the change shall provide a copy of the report to a resident of each mobilehome in the mobilehome park at the same time as the notice of the change is provided to the residents pursuant to paragraph (2) of subdivision (f) of Section 798.56 of the Civil Code.

(d) When the impact report is filed prior to the closure or cessation of use, the person or entity filing the report or park resident may request, and shall have a right to, a hearing before the legislative body on the sufficiency of the report.

(e) The legislative body, or its delegated advisory agency, shall review the report, prior to any change of use, and may require, as a condition of the change, the person or entity to take steps to mitigate any adverse impact of the conversion, closure, or cessation of use on the ability of displaced mobilehome park residents to find adequate housing in a mobilehome park. The steps required to be taken to mitigate shall not exceed the reasonable costs of relocation.

(f) If the closure or cessation of use of a mobilehome park results from an adjudication of bankruptcy, the provisions of this section shall not be applicable.

(g) The legislative body may establish reasonable fees pursuant to Section 66016 to cover any costs incurred by the local agency in implementing this section and Section 65863.8. Those fees shall be paid by the person or entity proposing the change in use.

(h) This section is applicable to charter cities.

(i) This section is applicable when the closure, cessation, or change of use is the result of a decision by a local governmental entity or planning agency not to renew a conditional use permit or zoning variance under which the mobilehome park has operated, or as a result of any other zoning or planning decision, action, or inaction. In this case, the local governmental agency is the person proposing the change in use for the purposes of preparing the impact report required by this section and is required to take steps to mitigate the adverse impact of the change as may be required in subdivision (e).

(j) This section is applicable when the closure, cessation, or change of use is the result of a decision by an enforcement agency, as defined in Section 18207 of the Health and Safety Code, to suspend the permit to operate the mobilehome park. In this case, the mobilehome park owner is the person proposing the

Additions or changes indicated by underline; deletions by asterisks * * *

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§ 65863.7

GOVERNMENT CODE

change in use for purposes of preparing the impact report required by this section and is required to take steps to mitigate the adverse impact of the change as may be required in subdivision (e).
(Added by Stats.1980, c. 879, p. 2760, § 2. Amended by Stats.1985, c. 1260, § 1; Stats.1986, c. 190, § 2, eff. June 25, 1986; Stats.1988, c. 171, § 2; Stats.1988, c. 910, § 2; Stats.1990, c. 1572 (A.B.3228), § 11; Stats.2004, c. 680 (A.B.2581), § 1.)

Historical and Statutory Notes

2004 Legislation
Stats.2004, c. 680 (A.B.2581), added subd. (j).
Section 2 of Stats.2004, c. 680 (A.B.2581), provides:
"No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution

because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code."

Research References

Encyclopedias

CA Jur. 3d Zoning and Other Land Controls § 133, in General; Governing Procedures-Under Statute.
Cal. Civ. Prac. Real Property Litigation § 91:41, Change of Use of Park.
Cal. Civ. Prac. Real Property Litigation § 31:53, Checklist of Additional Requirements for Termination of Tenancy Where Ground Is Change in Use of Park.
Cal. Civ. Prac. Real Property Litigation § 31:58, Notice by Management of Request for Change in Use of Mobilehome Park (Civ. Code § 798.56(G)(1)).

Treatises and Practice Aids

Rutter, Cal. Practice Guide: Landlord-Tenant Ch. 5-I, I. Demolition Controls (Rental Removals to Go Out of Business).
Rutter, Cal. Practice Guide: Landlord-Tenant Ch. 11-E, E. Termination of Mobilehome Tenancies.
Miller and Starr California Real Estate § 31:31, Termination of Tenancies-Mobilehomes.
Miller and Starr California Real Estate § 25:153, Local Agency Authority Under the Map Act.
4 Witkin Cal. Summ. 9th Real Property § 566, Acts or Powers of Entity Not Affected.

Notes of Decisions

Filing of report 2
Notice and reporting requirements 1

1. Notice and reporting requirements

Mobilehome park owner must comply with notice and reporting requirements set forth in Government Code whenever there is change of use of entire park or functional portion thereof which results in displacement of tenants. *Keh v. Walters* (App. 6 Dist. 1997) 65 Cal. Rptr.2d 42, 55 Cal.App.4th 1522, rehearing denied, review denied. *Landlord And Tenant* ¶ 393

At time of mobilehome park's proposed change of use, local ordinance required application and tenant impact report for any change which "could result in the loss of mobilehome park spaces" and fact that ordinance did not describe particular filing and review process at time park

owner first served notice of termination on tenants did not excuse owner's noncompliance with Government Code's requirements of application and impact report. *Keh v. Walters* (App. 6 Dist. 1997) 65 Cal. Rptr.2d 42, 55 Cal. App.4th 1522, rehearing denied, review denied. *Landlord And Tenant* ¶ 390

2. Filing of report

Sending copy of tenant impact report to city attorney marked for informational purposes did not constitute "filing" of report with local legislative body, required before any change of use of mobilehome park could occur; report which was simply sent to displaced residents with copy mailed to city attorney did not comply with Government Code. *Keh v. Walters* (App. 6 Dist. 1997) 65 Cal. Rptr.2d 42, 55 Cal.App.4th 1522, rehearing denied, review denied. *Landlord And Tenant* ¶ 390

§ 65863.10. Defined terms; notice of termination of subsidy contract or prepayment of governmental assistance or expiration of rental restrictions; exemptions; contents of notice; persons to receive notice; service of notice; compliance; injunctive relief

Text of section operative until July 1, 2005

(a) As used in this section, the following terms have the following meaning:

(1) "Affected public entities" means the mayor of the city in which the assisted housing development is located, or, if located in an unincorporated area, the chair of the board of supervisors of the county; the appropriate local public housing authority, if any; and the Department of Housing and Community Development.

(2) "Affected tenant" means a tenant household residing in an assisted housing development, as defined in paragraph (3), at the time notice is required to be provided pursuant to this section, that benefits from the government assistance.

(3) "Assisted housing development" means a multifamily rental housing development that receives governmental assistance under any of the following federal programs:

Additions or changes indicated by underline; deletions by asterisks * * *

GOVERNMENT CODE

(A) New construction management set-aside program of the United States Housing Act of 1965, as amended

(B) The following federal programs:

(i) The Below-Market Housing Program, U.S.C. Sec. 1715(d)(3) a

(ii) Section 236 of the National Housing Act

(iii) Section 202 of the National Housing Act

(C) Programs for rental assistance under the Housing Act of 1965, as amended

(D) Programs under the National Housing Act

(E) Section 42 of the National Housing Act

(4) "City" means a general law city or city and county

(5) "Expiration of rental restrictions" means the expiration of rental restrictions on a housing development development recorded agreements recorded with the city

(6) "Prepayment" means the mortgage indebtedness insurance, on an assisted housing development, have the effect of removal of laws and the regulatory

(7) "Termination" means the termination of a subsidy program for an either at or prior to the tenant rents or a change

(b)(1) At least 12 months before the expiration of rental restrictions on the termination or predevelopment in which the proposed change to each time the notice is provided Section 65863.13 shall be

(A) In the event of termination of rental restrictions up

(B) In the event of the whether the owner intends to terminate the Rental Revenue Code.

(C) In the event of a federally insured or federally insured or voluntarily cancel the mortgage

(D) The anticipated development of rental restrictions, and the identification of the

(E) A statement that the development of rental restrictions

(F) A statement of the proposed date of termination of the federal government

(G) A statement that the development at the time

(H) A statement that the rents, if any, for the termination of the subsidy

(I) A statement of not

(2) Notwithstanding the termination of a subsidy

Additions or

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Attachment 5
Government code 65590

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§ 65589.8

PLANNING AND ZONING

Title 7

requiring that any housing development contain a fixed percentage of affordable housing units.

(Added by Stats. 1983, c. 787, § 1.)

Library References

Constitutional Law § 228.3, 278.3.

WESTLAW Topic No. 92.

C.J.S. Constitutional Law §§ 936, 1270.

Article 10.7

LOW- AND MODERATE-INCOME HOUSING
WITHIN THE COASTAL ZONE

Section

65590. Application of law; conversion or demolition; replacement; new housing developments; incentives; local coastal programs.

65590.1. Application of requirements of § 65590; time; proceedings.

Heading of Article 10.7 was added by Stats. 1982, c. 43, § 2, eff. Feb. 17, 1982.

§ 65590. Application of law; conversion or demolition; replacement; new housing developments; incentives; local coastal programs

(a) In addition to the requirements of Article 10.6 (commencing with Section 65580), the provisions and requirement of this section shall apply within the coastal zone as defined and delineated in Division 20 (commencing with Section 30000) of the Public Resources Code. Each respective local government shall comply with the requirements of this section in that portion of its jurisdiction which is located within the coastal zone.

(b) The conversion or demolition of existing residential dwelling units occupied by persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, shall not be authorized unless provision has been made for the replacement of those dwelling units with units for persons and families of low or moderate income. Replacement dwelling units shall be located within the same city or county as the dwelling units proposed to be converted or demolished. The replacement dwelling units shall be located on the site of the converted or demolished structure or elsewhere within the coastal zone if feasible, or, if location on the site or elsewhere within the coastal zone is not feasible, they shall be located within three miles of the coastal zone. The replacement dwelling units shall be provided and available for use within three years from the date upon which work commenced on the conversion or demolition of the residential dwelling unit. In the event that an existing residential dwelling unit is occupied by more than one person or family, the provisions of this subdivision shall apply if at least one such person or family, excluding any dependents thereof, is of low or moderate income.

For purposes of this subdivision, a residential dwelling unit shall be deemed occupied by a person or family of low or moderate income if the person or

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LOCAL PLANNING

§ 65590

Div. 1

family was evicted from that dwelling unit within one year prior to the filing of an application to convert or demolish the unit and if the eviction was for the purpose of avoiding the requirements of this subdivision. If a substantial number of persons or families of low or moderate income were evicted from a single residential development within one year prior to the filing of an application to convert or demolish that structure, the evictions shall be presumed to have been for the purpose of avoiding the requirements of this subdivision and the applicant for the conversion or demolition shall bear the burden of proving that the evictions were not for the purpose of avoiding the requirements of this subdivision.

The requirements of this subdivision for replacement dwelling units shall not apply to the following types of conversion or demolition unless the local government determines that replacement of all or any portion of the converted or demolished dwelling units is feasible, in which event replacement dwelling units shall be required:

(1) The conversion or demolition of a residential structure which contains less than three dwelling units, or, in the event that a proposed conversion or demolition involves more than one residential structure, the conversion or demolition of 10 or fewer dwelling units.

(2) The conversion or demolition of a residential structure for purposes of a nonresidential use which is either "coastal dependent," as defined in Section 30101 of the Public Resources Code, or "coastal related," as defined in Section 30101.3 of the Public Resources Code. However, the coastal-dependent or coastal-related use shall be consistent with the provisions of the land use plan portion of the local government's local coastal program which has been certified as provided in Section 30512 of the Public Resources Code. Examples of coastal-dependent or coastal-related uses include, but are not limited to, visitor-serving commercial or recreational facilities, coastal-dependent industry, or boating or harbor facilities.

(3) The conversion or demolition of a residential structure located within the jurisdiction of a local government which has within the area encompassing the coastal zone, and three miles inland therefrom, less than 50 acres, in aggregate, of land which is vacant, privately owned and available for residential use.

(4) The conversion or demolition of a residential structure located within the jurisdiction of a local government which has established a procedure under which an applicant for conversion or demolition will pay an in-lieu fee into a program, the various provisions of which, in aggregate, will result in the replacement of the number of dwelling units which would otherwise have been required by this subdivision. As otherwise required by this subdivision, the replacement units shall, (i) be located within the coastal zone if feasible, or, if location within the coastal zone is not feasible, shall be located within three miles of the coastal zone, and (ii) shall be provided and available for use within three years from the date upon which work commenced on the conversion or demolition.

The requirements of this subdivision for replacement dwelling units shall not apply to the demolition of any residential structure which has been declared to

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§ 65590

PLANNING AND ZONING
Title 7

be a public nuisance under the provisions of Division 13 (commencing with Section 17000) of the Health and Safety Code, or any local ordinance enacted pursuant to those provisions.

For purposes of this subdivision, no building, which conforms to the standards which were applicable at the time the building was constructed and which does not constitute a substandard building, as provided in Section 17920.3 of the Health and Safety Code, shall be deemed to be a public nuisance solely because the building does not conform to one or more of the current provisions of the Uniform Building Code as adopted within the jurisdiction for new construction.

(c) The conversion or demolition of any residential structure for purposes of a nonresidential use which is not "coastal dependent", as defined in Section 30101 of the Public Resources Code, shall not be authorized unless the local government has first determined that a residential use is no longer feasible in that location. If a local government makes this determination and authorizes the conversion or demolition of the residential structure, it shall require replacement of any dwelling units occupied by persons and families of low or moderate income pursuant to the applicable provisions of subdivision (b).

(d) New housing developments constructed within the coastal zone shall, where feasible, provide housing units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code. Where it is not feasible to provide these housing units in a proposed new housing development, the local government shall require the developer to provide such housing, if feasible to do so, at another location within the same city or county, either within the coastal zone or within three miles thereof. In order to assist in providing new housing units, each local government shall offer density bonuses or other incentives, including, but not limited to, modification of zoning and subdivision requirements, accelerated processing of required applications, and the waiver of appropriate fees.

(e) Any determination of the "feasibility" of an action required to be taken by this section shall be reviewable pursuant to the provisions of Section 1094.5 of the Code of Civil Procedure.

(f) The housing provisions of any local coastal program prepared and certified pursuant to Division 20 (commencing with Section 30000) of the Public Resources Code prior to January 1, 1982, shall be deemed to satisfy all of the requirements of this section. Any change or alteration in those housing provisions made on or after January 1, 1982, shall be subject to all of the requirements of this section.

(g) As used in this section:

(1) "Conversion" means a change of a residential dwelling, including a mobilehome, as defined in Section 18008 of the Health and Safety Code, or a mobilehome lot in a mobilehome park, as defined in Section 18214 of the Health and Safety Code, or a residential hotel as defined in paragraph (1) of subdivision (b) of Section 50519 of the Health and Safety Code, to a condominium, cooperative, or similar form of ownership; or a change of a residential

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LOCAL PLANNING
Div. 1

dwelling, including a mobilehome, or a mobilehome lot in a mobilehome park, or a residential hotel to a nonresidential use.

(2) "Demolition" means the demolition of a residential dwelling, including a mobilehome, as defined in Section 18008 of the Health and Safety Code, or a mobilehome lot in a mobilehome park, as defined in Section 18214 of the Health and Safety Code, or a residential hotel, as defined in paragraph (1) of subdivision (b) of Section 50519 of the Health and Safety Code, which has not been declared to be a public nuisance under Division 13 (commencing with Section 17000) of the Health and Safety Code or any local ordinance enacted pursuant to those provisions.

(3) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technical factors.

(h) With respect to the requirements of Sections 65583 and 65584, compliance with the requirements of this section is not intended and shall not be construed as any of the following:

(1) A statutory interpretation or determination of the local government actions which may be necessary to comply with the requirements of those sections; except that compliance with this section shall be deemed to satisfy the requirements of paragraph (2) of subdivision (c) of Section 65583 for that portion of a local government's jurisdiction which is located within the coastal zone.

(2) A limitation on the program components which may be included in a housing element, or a requirement that a housing element be amended in order to incorporate within it any specific provision of this section or related policies. Any revision of a housing element pursuant to Section 65588 shall, however, take into account any low- or moderate-income housing which has been provided or required pursuant to this section.

(3) Except as otherwise specifically required by this section, a requirement that a local government adopt individual ordinances or programs in order to implement the requirements of this section.

(i) No provision of this section shall be construed as increasing or decreasing the authority of a local government to enact ordinances or to take any other action to ensure the continued affordability of housing.

(j) Local governments may impose fees upon persons subject to the provisions of this section to offset administrative costs incurred in order to comply with the requirements of this section.

(k) This section establishes minimum requirements for housing within the coastal zone for persons and families of low or moderate income. It is not intended and shall not be construed as a limitation or constraint on the authority or ability of a local government, as may otherwise be provided by law, to require or provide low- or moderate-income housing within the coastal zone which is in addition to the requirements of this section.

(Added by Stats.1981, c. 1007, § 1. Amended by Stats.1982, c. 43, § 3, eff. Feb. 17, 1982; Stats.1982, c. 1246, § 1.)

§ 65590

BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF CODES AND STANDARDS
MOBILEHOME PARKS PROGRAM



APPLICATION FOR PERMIT TO OPERATE
(See Reverse Side for Instructions on Completing this Form)

SECTION 1. TYPE OF PERMIT REQUESTED (Check appropriate boxes)

Park ID No: 40-0056-MP

- ☐ Original
 ☐ Snow Roof Load Maintenance Program
- ☒ Amended
 ☒ Transfer of Owner/Operator
 ☒ Change of Name or Address
 ☐ Snow Roof Load Maintenance Program
 ☐ Change in Number of Lots _____

Type of Park:

- ☒ Mobilehome Park ☐ Travel Trailer Park ☐ Temporary Trailer Park
☐ Recreational Trailer Park ☐ Tent Camp ☐ Incidental Camping Area

SECTION 2. LOT INFORMATION

Number of Lots

Mobilehome Lots: 10
Recreational Vehicle Lots With Drains: 10
Recreational Vehicle Lots Without Drains: 0

Total Lots: 20

Conditional Uses

- ☐ Recreational Vehicle Lots Without Traps or Vents*
☐ Lots With Electrical System Designed Exclusively for Single Unit Mobilehomes*
☐ Other _____
* Lot Numbers _____

DEPARTMENT USE ONLY

Collection No. _____
Date _____
PTO Fee \$25 _____
State Fee _____
MH Lot Fee \$4 _____
Lot Fee \$2 _____
Amended PTO Fee \$10 _____
Permit to Const. # _____
TOTAL _____

SECTION 3. PARK INFORMATION: (* Indicates Required Information)

*Park Name Rod & Reel Trailer Park Telephone No. N/A

*Location 1460 Main Street
(Street Address)

*City Cambria State CA County San Luis Obispo Zip 93428
☐ Incorporated City ☒ Unincorporated Area

*Owner's Name GFS Cambria, LLC & Steve K. Miller Telephone No. (805) 995-2677

*Mailing Address P.O. Box 228 Cayucos CA 93430
(Street or P.O. Box) (City) (State) (Zip)

(The Following Information is Optional)

Property Manager _____ Telephone Number (____) ____ - ____

Mailing Address _____
(Street or P.O. Box) (City) (State) (Zip)

Park Manager Name _____ Telephone Number (____) ____ - ____

Signature _____ Printed Name _____

SECTION 4. OWNER CERTIFICATION

As owner of the park described above, I agree to all necessary inspections required to obtain a Permit to Operate. I also agree that this park shall be operated and maintained in accordance with the Health and Safety Code, Division 13, Part 2.1 and the applicable provisions of the California Code of Regulations.

I certify under penalty of perjury under the laws of the State of California, that the information provided in this application is true and correct.

*Executed on January 27, 2005 at San Luis Obispo, California
(Date) (City) (State)

*Signature: [Signature] Printed Name: Steve K. Miller, individually and Manager of LLC

DEPARTMENT USE ONLY

*Signature of Inspector: _____ Date: _____

70 INVOICE FOR
ANNUAL
PERMIT TO OPERATE

STATE OF CALIFORNIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF CODES AND STANDARDS

111-11/T-P 40-0056/MP

February 17, 2004

Park ID No.
40-0056-MP

Good to March 2005

DUE DATE: March 31, 2004

OWNER

CAROLYN CONNELLY
1460 MAIN ST S BOX-7
CAMBRIA, CA 93428

Pay
Mar

PARK NAME & ADDRESS

THE CONNELLYS RODIREEL TP
1460 MAIN ST
CAMBRIA, CA 93428

Kind or Use	Mobilehome Lots With Drains	Recreational Vehicle Lots With Drains	Lots Without Drains	Total Lots
U	10	10	0	20

Annual Fee:

If postmarked on or before 4/29/2004 please pay:	\$180.00
If postmarked on or before 5/29/2004 please pay:	\$195.00
If postmarked on or after 5/30/2004 please pay:	\$260.00

Annual Fee Charges

MPM Lot Fee	\$40.00
Per Lot Fee	\$40.00
Permit Issuance Fee - PTO New	\$25.00
State Fee	\$75.00

CONDITIONAL USES

ELEV "ONE LEVEL FLAT" 30 AMP LOTS, CATHODIC PROTECTION

TO INSURE PROPER CREDIT, PLEASE RETURN THIS INVOICE WITH YOUR
PAYMENT. WRITE PARK ID NUMBER ON CHECK AND MAKE PAYABLE TO:
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.

3737 Main Street, Suite 400
Riverside CA 92501

(909) 782-4420 FAX (909) 320-6277

California Relay Service for the Hearing Impaired:

From TDD Phones: 1-800-735-2929 From Voice Phones: 1-800-735-2922

INVOICES RETURNED TO THE DEPARTMENT 30 DAYS AFTER THE DUE DATE SHALL BE SUBJECT
TO A PENALTY FEE EQUAL TO 10 PERCENT OF THE ESTABLISHED FEE. THE PENALTY FEE FOR
SUBMITTING AN INVOICE 60 OR MORE DAYS AFTER THE DUE DATE SHALL EQUAL 100 PERCENT
OF THE ESTABLISHED PERMIT FEE. THESE PENALTIES AND THE ESTABLISHED PERMIT FEES
SHALL BE PAID PRIOR TO ISSUANCE OF THE PERMIT AND THE FEE AND 100 PERCENT PENALTY
SHALL BE DUE UPON DEMAND OF THE DEPARTMENT FOR ANY PARK THAT HAS NOT APPLIED
FOR A PERMIT

NOTE: THE DUE DATE SHALL MEAN THE EXPIRATION DATE AS SHOWN ON YOUR PREVIOUS
YEAR'S PERMIT TO OPERATE.

INDICATE ANY CHANGES IN THE INFORMATION SHOWN ABOVE.



17238

HCD 503 (Rev 03/2000)

STATE OF CALIFORNIA
ANNUAL PERMIT TO OPERATE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF CODES AND STANDARDS

July 13, 2004

Park ID No.
40-0058-MP

Inc or Unc	Mobilehome Lots With Drains	Recreational Vehicle Lots With Drains	Lots Without Drains	Total Lots
U	10	10	0	20

OWNER

CAROLYN CONNELLY
1460 MAIN ST S BOX-7
CAMBRIA, CA 93428

PARK NAME & ADDRESS

THE CONNELLYS RODIREEL TP
1460 MAIN ST
CAMBRIA, CA 93428

CONDITIONAL USES

Fire Hydrant System Status: No private hydrants

ELEV"ONE LEVEL FLAT" 30 AMP LOTS, CATHODIC PROTECTION

THIS PERMIT EXPIRES March 31, 2005

THIS PERMIT IS ISSUED IN ACCORDANCE WITH THE PROVISIONS OF THE CALIFORNIA HEALTH AND SAFETY CODE AND IS SUBJECT TO SUSPENSION OR REVOCATION AS PROVIDED THEREIN. THIS PERMIT IS NOT TRANSFERABLE. THE DEPARTMENT SHALL BE NOTIFIED WITHIN 30 DAYS OF ANY CHANGE OF NAME, OWNERSHIP OR OPERATOR.

3737 Main Street, Suite 400
Riverside CA 92501
(909) 762-4420 FAX (909) 320-6277
California Relay Service for the Hearing Impaired:
From TDD Phones: 1-800-735-2929 From Voice Phones: 1-800-735-2922

POST IN A CONSPICUOUS PLACE

HCD 508 (Rev 03/2000)

W7a

RECEIVED**FAX COVER SHEET**

AUG 08 2005

KELLEY CONSTRUCTIONCALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

FAX #: 805-481-2468

OFFICE #: 805-481-2468

DATE: 08/08/2005

CELL #: 805-440-2321

TO: California Coastal Commission / Attn: Jonathan Bishop

FAX #: 831-427-4877

Request to Withdraw Application

COASTAL DEVELOPMENT PERMIT APPLICATION 3-02-114

KELLEY / GREEN - 537 HONOLULU, OCEANO, CA

Dear Jonathan,

This letter confirms our conversation requesting that the application for this Coastal permit be withdrawn. We are hereby requesting that you withdraw our application in its entirety and remove it from the Agenda for the next meeting. A new Coastal application will be pursued by another party in the future.

Please contact me on my cell phone (805-440-2321) when you receive this, to confirm our withdrawal.

Thanks,

Bud Kelley**No. of sheets, including cover sheet 1**

FROM :

FAX NO. :

W76

Aug. 03 2005 09:10AM P2

28-Jul-05 02:08pm From-

T-497 P.002/002 F-548

STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(931) 427-4853



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AUG 03 2005

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Request for Postponement

Re: Application No. 3-04-075

I hereby request a postponement of the referenced application from its scheduled Commission public hearing date. I do so as a matter of right pursuant to Public Resource Code 13073(a), and acknowledge that I may be granted only one right to postponement. I also agree to waive any applicable time limits for Commission action pursuant to Public Resources Code 13073(c) on the above-referenced application. I understand I must provide another set of stamped, addressed envelopes to meet public notice requirement consistency with CCR 14 Section 13054. These must be received in the District Office by _____. I request that the referenced application be scheduled:

- () for consideration at the next possible Southern California Commission meeting.
- () for consideration at the next possible Northern California Commission meeting.

(I understand that the application may need to be scheduled without regard to the Southern/Northern California preference, for reasons beyond the control of the Commission.)

- () for consideration after staff and I have had additional time to discuss the project.

☒ Other (explain) , *POSTPONE UNTIL OCTOBER & PUT ON OCTOBER MEETING AGENDA*

8/3/05
Date

Signature of applicant or authorized agent

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
FAX: (831) 427-4877

W7c**STAFF REPORT ADDENDUM**

Date: August 8, 2005

To: Commissioners and Interested Parties

From: Charles Lester, Deputy Director
Steve Monowitz, District Manager *SM 7/1/05*
Lee Otter, Coastal Planner

Subject: Addendum to Staff Report Regarding Coastal Development Permit Application
No. 3-05-001 (Caltrans--Big Sur landslide disposal sites project), Agenda Item W7c

As described in the July 19, 2005 staff report, the California Department of Transportation (Caltrans) proposes to establish two terrestrial permanent disposal sites for soil and debris generated by landslides and other naturally occurring events. These sites may also be utilized for landslide materials processing and recycling. The purpose of the project is to provide terrestrial disposal options in anticipation of future landslides and storm events, as necessary for restoring service on the Big Sur Coast Highway (State Highway Route 1). The two disposal sites, identified as Tree Bones and Willow Springs, are located in Los Padres National Forest, near the southern end of Monterey County.

Since the staff report was completed, Caltrans has had the opportunity to review the proposed conditions and has offered modified language that will assure the feasibility of the project. Commission staff concurs that the suggested changes are reasonable and for the most part can be incorporated into the terms of the permit. Another received comment points out the value of having more specific standards for vegetative restoration (letter from J. & S. Kwasny, 7/30/05). Accordingly, with a few alterations (to accommodate context and to protect the Tree Bones depression in event future analysis determines that it constitutes a wetland habitat), the following changes to the staff recommendation are submitted (additions shown by underlines, deletions by ~~strikethroughs~~):

I. Changes to Special Condition 2 – Revised Site Plan Requirements. (Please see page 7 of the staff report.) The changes provide a more precise way to measure setback distance, since there is no exact edge to the Tree Bones depression. The changes also accommodate the widest possible range of dewatering measures; reflect the reality that it is not feasible to quantitatively correlate a particular pattern of dewatering with a corresponding particular amount of risk reduction; and, disallow dewatering the Tree Bones depression in event future analysis determines that it constitutes a wetland habitat. Specifically, the following changes are recommended:

2. Revised/updated site plans for Tree Bones and Willow Springs disposal sites. A revised/updated site plan shall be submitted for Executive Director review and approval PRIOR TO DEPOSITION OF TRANSPORTED MATERIALS at the Tree Bones site, and similarly for the Willow Springs site. Revised/updated plans may be submitted at different times for each respective site. Such revised/updated site plans shall:

- a. provide a ~~minimum~~ setback of 100 ft. from the approximate center point~~floor~~ of the Tree Bones depression to the toe of the fill slope (a greater setback or other measures may be necessary, ~~of up to 300 ft.,~~ based on the recommendations of the U.S. Forest Service and Coastal Commission biologists, if the occasional flooded area is determined to constitute a wetland habitat);
- b. show placement of ~~horizontal drains, hydroaugers and~~ other measures for dewatering the Tree Bones disposal site, as determined appropriate to reduce landslide risk ~~the landslide formation, overall, for the Tree Bones site; this subsurface drainage system shall be placed and designed to offset the additional weight of materials deposited in the approved disposal site, (without impacting the level of any water that may naturally accumulate within the Tree Bones depression, if the occasional flooded area is determined to constitute a wetland habitat);~~
- c. show placement of ~~horizontal drains, hydroaugers and~~ other measures for dewatering the ~~landslide formation, overall, for the Willow Springs site; this subsurface drainage system shall be placed and designed to offset the additional weight of materials deposited in the approved disposal site~~ the Willow Springs disposal site, as determined appropriate to reduce landslide risk; ...

II. Changes to Special Condition 7 – Special Geotechnical Monitoring Requirement. (Please see pages 9-10 of the staff report.) The change moves the detailed list of contents for the emergency response plans to the Findings section.

7. Special Geotechnical Monitoring Requirement. In addition to any other monitoring that may be conducted pursuant to Caltrans' or U.S. Forest Service standards, permittee shall:

- a. PRIOR TO THE INITIAL DISPOSAL EPISODE at each respective disposal site, submit for Executive Director review and approval, a geotechnical monitoring and response plan; such plan shall:
 - 1) identify an appropriate geotechnical monitoring system for detecting ground movement and subsurface water levels at, and downslope from, each disposal site; this system may include the existing instrumentation together with any necessary additional motion sensors or other means of detecting ground movement and indications of impending ground failure;

- 2) specify quantitative risk thresholds that would indicate a need to halt disposal operations, or a need to remove recently added materials, or a need to initiate an emergency response, based on monitored indicators (e.g., elevated water levels on the slide plane, accelerated ground movement, new tension cracks);
 - 3) specify when and under what circumstances the various components of the monitoring system can be reasonably phased out, assuming no accelerated landslide movement is detected (or if detected, does not warrant continued active monitoring);
 - 4) providedetail an emergency response plan, outlining actions to be taken in event sudden movement is detected; or is anticipatedthe indicators point to a significantly elevated risk of sudden movement. Such plan should include at a minimum: installation of warning signals; immediate telephone notification of the appropriate emergency authorities; interagency notification via the standard Emergency Highway Repair Interagency Notice form; and, as necessary, evacuation of any personnel that do not need to be in the area of potential landslide impact, including but not limited to employees at Caltrans' Willow Springs Maintenance Station, occupants of the Treebones Rustie Campground facility, and/or the public on the adjacent segment of State Highway Route 1.
- b. PRIOR TO THE INITIAL DISPOSAL EPISODE, provide and maintain the approved geotechnical monitoring system.

III. Change to Finding 6.c—"Balancing" Provisions (Please see p. 47 of staff report, second to last paragraph). In support of these modifications to the conditions, staff recommends that the portion of the "balancing" finding regarding the potential for damage from geologic instability be revised by inserting a new paragraph in the middle of the staff report's second to last paragraph on p. 47, as follows:

Applicant's best estimates of future stability notwithstanding, renewed movement of the landslide is nonetheless possible. However, there are no developed facilities in the direct downslope landslide path, other than Highway 1. A Caltrans maintenance station and a visitor-serving commercial campground are nearby, but are not directly downslope from the neighboring project sites.

In recognition of the potential for future ground movement, given a certain set of conditions, this permit is conditioned to require measures that will minimize the hazards to traffic on Highway 1 and nearby development. Specifically, this permit is conditioned to require that such risks be reduced by dewatering the sites, by

establishing an effective geotechnical monitoring system, and by having emergency response plans in place. Appropriate measures for such an emergency response plan would include: installation of warning signals, if needed; immediate telephone notification of the appropriate emergency authorities; interagency notification via the standard Emergency Highway Repair Interagency Notice form; and, as necessary, evacuation of any personnel that do not need to be in the area of potential landslide impact, including but not limited to employees at Caltrans' Willow Springs Maintenance Station, occupants of the Treebones Resort rustic campground facility, and/or the public on the adjacent segment of State Highway Route 1.

Other than seacliff buckwheat, there are no known, particularly-sensitive terrestrial habitat, shoreline or nearshore marine resources downslope from either site. Therefore, although the project will contribute to the instability of the underlying landslides, in a manner possibly contrary to the policy contained in Coastal Act Section 30253(2), the exposure of people, property and sensitive resources to this hazard appears to be relatively minimal.

IV. Change to Special Condition 8.a—Special Botanical Monitoring Requirement (Please see p. 10 of the staff report.) In order to better link the site vegetation restoration and monitoring requirement to the detailed best management practices contained in the ratified Coast Highway Management Plan (CHMP) guidelines, the following additional language is recommended:

8. Special Botanical Monitoring Requirement. In addition to any other monitoring that may be conducted pursuant to Caltrans' or U.S. Forest Service standards, permittee shall:

- a. PRIOR TO COMPLETION OF THE INITIAL ACCESS ROAD AND SITE PREPARATION WORK for each respective disposal site, submit for Executive Director review and approval, an invasive plant monitoring and response plan; such plan shall provide for the detection and timely removal of undesirable non-native invasive plants that may colonize the disposal site surfaces, the access road corridors leading to the sites from State Highway Route 1, or any adjacent areas disturbed by disposal operations; appropriate measures for these plans are contained in the Coast Highway Management Plan (CHMP) Guidelines for Vegetation Management, particularly in the Best Practices for Site Restoration and Best Practices for Roadside Management sections;
- b. Identify the targeted undesirable non-native invasive plant species, including those identified in the CHMP Guidelines for Vegetation Management; such identification shall be conducted in consultation with the assigned Forest Ecologist ...

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AUG 08 2005

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREAW7C
UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICEMonterey Bay National Marine Sanctuary
299 Foam Street
Monterey, California 93940

August 8, 2005

Ms. Meg Caldwell, Chair
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060-4508

RE: CalTrans Agenda Item: Wed 7C

Dear Ms. Caldwell,

I am writing in support of the Coastal Development Permit application submitted by the California Department of Transportation (CalTrans) to establish two permanent terrestrial sites for disposal of soil and debris generated by landslides. These sites have been identified after a long process undertaken by Caltrans to locate suitable terrestrial disposal sites within the Big Sur coast area and are currently the only sites being pursued after a screening of 45 original sites.

The Monterey Bay National Marine Sanctuary (MBNMS) is a Federally protected marine area offshore of California's central coast. Stretching from Marin to Cambria, the MBNMS encompasses a shoreline length of 276 miles and 5,322 square miles of ocean. Supporting one of the world's most diverse marine ecosystems, it is home to numerous mammals, seabirds, fishes, invertebrates and plants in a remarkably productive coastal environment. Protecting the sanctuary from adverse human activity is one of our mandates.

Prior to the designation of the sanctuary in 1992, Highway 1 maintenance and catastrophic road repair activities along the Big Sur coast often deviated considerably from the natural patterns of landslide movement and sediment dispersion in marine systems. The disposal of landslide debris affects marine habitats and biological communities by direct burial, sand scour and plumes of fine suspended sediment. Sanctuary regulations prohibit the discharge of material within its boundaries, and secondly, prohibit the disposal of material outside the sanctuary's boundaries that subsequently enters the sanctuary and harms resources. The designation of MBNMS required CalTrans to change their culture of marine disposal as a first option during the storms of 1998. As a result of 1998's severe winter storms, the MBNMS, in conjunction with other Coast Highway Management Plan (CHMP) members, urged CalTrans to identify terrestrial sites that could be pre-approved for landslide disposal in the future.

Understanding that the capacity of terrestrial disposal sites will be limited, MBNMS is simultaneously evaluating shoreline marine habitats along the Big Sur Coast for sensitivity to landslide disposal activities. This survey of the marine resources and an



evaluation of sensitive habitats will enable decision-makers to avoid disposal at critical marine areas and to identify marine areas with low resource value that may be suitable for coastal disposal of rock and soil by CalTrans. However, it is likely that scenarios will arise where the MBNMS will not be able to authorize disposal as a result of sensitive intertidal and subtidal marine resources. In these instances, it will be critical that CalTrans has disposal options available, which these two terrestrial sites offer.

In conclusion, I urge the California Coastal Commission to approve the Tree Bones and Willow Springs sites as permanent disposal sites for soil and debris generated by landslide repair activities along the Big Sur coast. I believe that CalTrans, in conjunction with the CHMP Steering Committee, has completed a long and rigorous process to reveal these two sites as environmentally acceptable, feasible disposal sites without significant scenic resource impacts. Should you have any questions, please feel free to contact Lisa de Marignac, MBNMS staff, at (831) 647-4238, or Holly Price (831) 647-4247.

Sincerely,

A handwritten signature in black ink, appearing to read 'William J. Douros', written in a cursive style.

William J. Douros,
Superintendent

cc: Charles Lester, CCC Staff
Aileen Loe, CalTrans

W7c

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AUG 08 2005

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA



Chairperson, California Coastal Commission
Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, CA 95060

August 8, 2005
Ref: WFc

Dear Sir/Madam:

During the winter storms emergency in 1998, the Big Sur Volunteer Fire Brigade set up an Incident Command Center located at the Multi Agency Facility. We created a unified command including the Brigade, CHP, Monterey County Sheriff, Big Sur Chamber of Commerce, CDF and CalTrans. Due to the enormous amount of material that was washed downhill onto, under and through Highway 1 during those storms, it became painfully clear that the residents and businesses of Big Sur were going to spend a lot of time landlocked by the repair and restoration efforts. As the Incident Commander for the duration of the event, I spent the majority of my time working with our volunteer staff to work out the logistics of a "shelter in place" strategy for all who stayed in the area.

Once the weather emergency abated, our major deterrent to clearing a feasible entry and egress route for domestic, business and emergency transportation was the time taken to remove and place native soils and rock debris, and then to re-process it to remove to acceptable disposal sites well out of the area. The lack of approved disposal sites became the major blockage to a speedy recovery for the community.

After several years of study and negotiations, CalTrans has finally been able to identify two substantial disposal sites to allow local placement of landslide debris. We applaud the efforts of the CalTrans staff, and all those stakeholders who have hammered out the details of this disposal plan, and we especially applaud the wisdom of the Commission staff in their recommendation to approve the plan as submitted.

On behalf of the Big Sur Volunteer Fire Brigade members and Board of Directors, and the residents and businesses of the Big Sur community, I urge you and the Commission to approve the plan as a good balance between the various conflicting priorities of environmental concerns and the compelling needs of the community and the highway corridor.

Sincerely,

Frank L. Pinney III

Chief POST OFFICE BOX 620, BIG SUR CA 95020 • (408) 667-2113 • TAX EXEMPT #04-0040361

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AUG 05 2005

W7C

Treebones Resort, LLC
A California Limited Liability Company

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

3812 Weston Place
Long Beach, CA 90807

Telephone (310) 503-0778
handyjc@mindspring.com

August 2nd, 2005

Attn: Lee Otter
California Coastal Commission
Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, CA 95060

Ref: Permit # 3-05-001
Item # W7C
Treebones Landslide
Disposal Site

Dear Mr Otter,

I am John Handy. My wife, Corinne and I are the owners of Treebones Resort, the business adjacent to the proposed Treebones landslide disposal site which is scheduled for Coastal Commission hearing on August 10th.

As a business owner I definitely appreciate the necessity for dump sites to aid in reopening Highway 1 after winter slides. However, if this dump site is approved it will have definite impact on our fledgling business. To help mitigate negative impacts, I recommend the following conditions of approval:


1. Caltrans should pave the access road before use. The access road for the dump site is the same road used by our guests. An unpaved road being used by large tandem trailer dump trucks will surely become rutted, muddy and slippery in the winter months when slides occur. We currently maintain this road under easement from the US Forest Service and we know from experience that it will become a treacherous experience for our guests if shared with dump trucks without being paved. I've discussed this with both Caltrans and the Forest Service. I expressed a willingness to sign a commitment to maintain the paved surface at the completion of the project.
2. Restrict dumping periods to between 11 AM and 3PM daily. These are the hours when the fewest guests are on site. This will improve traffic safety and be less disturbing to the serenity of the site for our guests.
3. Inspect slide material for asbestos before being allowed to be dumped in this location due to the proximity to dwellings and water supplies.
4. Coordinate any closures to the access road with Treebones Resort management well in advance. If the road will be closed to Treebones guests while it's being upgraded it must occur on dates when we don't

have advanced reservations. Treebones must be compensated for any lost business during forced downtimes.

I appreciate your consideration of these requests. I will attempt to attend the hearing in person and am willing to cooperate in any way I can to make this project work. When the August 10th hearing schedule is set, please let me know approximately when this agenda item is slated to occur so I can make arrangements to be there.

Sincerely,

John Handy

A handwritten signature in black ink, appearing to read 'John Handy', with a long horizontal flourish extending to the right.

W7C

RECEIVED

AUG 03 2005

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Application No. 3-05-1
Agenda # W7C

Jeff & Susan Kwasny
1701 Melrose Ave.
Cambria, CA 93428

Oppose Project as described

July 30, 2005

California Coastal Commission
Central Coast District
Attn: Lee Otter
725 Front Street, Suite 300
Santa Cruz, CA 95060-4508

RE: Permit Application by CalTrans for two terrestrial landslide disposal sites in the Los Padres National Forest near Gorda, Big Sur, Monterey County.

Dear Mr. Otter: Please review and share this letter with Commission Staff in preparation for their August 10-12, 2005, hearing.

Upon review of the above referenced project we found mitigation and restoration measures vague and non-tangible to preserve the outstanding natural resources along the Big Sur coast. To permit this project to proceed as described without mandatory site-specific requirements to prevent the invasion of non-native weeds and a restoration plan is inconsistent with the Local Coastal Program Policies including: Basic Objectives and Policies 2.2.1, Environmentally Sensitive Habitats 3.3 & 3.3.1 & 3.3.3.10, Water Resources 3.4.2.2, Mineral Resources 3.8.3.3e & 3.8.3.5i,j,l.

This letter is not in opposition to the disposal sites. We understand the need for CalTrans to develop such sites along the Big Sur coast. Our concern is the lack of provisions to preserve and protect the outstanding natural resources along the Big Sur coast for present and future residents of the State. As it stands, the permit issued by the U.S. Forest Service has little meaningful weed prevention, weed control or restoration criteria necessary for the site to retain some resemblance of what it is today- undisturbed coastal scrub habitat. Those of you who are familiar with the unique flora along the Big Sur coast and the constant threat by non-native invasive weeds will understand the importance of this request. We have contacted the U.S. Forest Service and were rebuffed. The Monterey District office provided us a copy of the permit and referenced Attachment A – Reasonable and Prudent Measures. I've enclosed the attachment with this letter for your review. The reasonable and prudent measures are vague and ambiguous as to who will be responsible to implement them. The permit lacks specificity on who (and how to measure compliance) is responsible for weed prevention during the life of the disposal site; how (and by who) is the site to be restored when capacity is reached; what techniques are to be used; and what criteria must CalTrans meet in their

effort to restore this coastal scrub community to a condition capable of supporting the wildlife and watershed functions prior to disturbance. In general, there are no detailed measures to follow or enforce. Who will require who to do what?

We have contacted CalTrans and they seem willing to do what ever the Forest Service or Coastal Commission requires. Their Coast Highway Management Plan, Guidelines for Vegetation Management, discusses Best Practices for Site Restoration. Objectives are to identify site restoration goals, establish weed control measures and determine appropriate site restoration strategies. None of which have been completed (to our knowledge) for the disposal sites.

Following is a synopsis (reproduced in part) of objectives and policies found in the Monterey County, Big Sur Coast Land Use Plan and the deficiencies of the project in meeting those policies.

Basic Objectives and Policies 2.2.1:

The County's basic policy is to take a strong and active role in the stewardship and safeguarding of Big Sur's irreplaceable natural resources.

Inconsistency: The coastal Scrub habitat at the Treebones is irreplaceable and there is no (meaningful) attempt to restore the site to its' predisturbance condition.

Environmentally Sensitive Habitats 3.3:

The roads leading into both disposal sites, and the area adjacent to the Willow Springs site both contain seacliff buckwheat plants, the only known host plant for the federally listed endangered Smith's blue butterfly (SBB). The Willow Springs site is occupied by SBBs and has been suggested as one of ten sites to permanently protect to meet the recovery strategy contained in the Smith's blue butterfly Recovery Plan (U.S. FWS 1984).

Inconsistency: Measures are not in place to prevent disturbance attracted non-native invasive weeds such as French broom (which already exists on site) from colonizing this site, invading SBB habitat, and replacing seacliff buckwheat and other native coastal sage scrub components.

Environmentally Sensitive Habitats 3.3.1:

All practical efforts shall be made to maintain, restore, and if possible, enhance Big Sur's environmentally sensitive habitat.

Inconsistency: There are no detailed instructions on how this will be done.

Environmentally Sensitive Habitats 3.3.3.10:

Monterey County encourages public agencies to undertake restoration of Big Sur's natural environment by removal of exotic plants such as French broom, etc.

Inconsistency: There are no detailed instructions on how this will be done.

Water Resources 3.4.2.2:

The county will require adherence to the best watershed planning principles including:
...maintenance of safe and good water quality...

Inconsistency: The small natural pond at the Treebones is in jeopardy. There was no hydrological study to assess the effects of disposing tons of landslide material adjacent to this pond. The minimum setback of material with no vegetative buffer may not prevent such material from sliding/eroding into the pond, eventually filling it with sediment. There should be effectiveness monitoring and adaptive management plans specified in the event that the pond begins to silt in.

Mineral Resources 3.8.3.3e:

Measures to provide for the restoration of native plant species normally occurring in the mined areas.

Inconsistency: There are no detailed instructions on how this will be done.

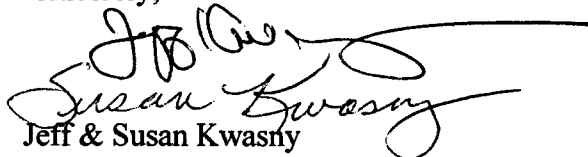
Mineral Resources 3.8.3.5i,j,l:

Minimize visual, scarring, disturbed surface areas shall be restored through use of indigenous vegetation so that no boundary is discernible between mined and unmined area; disturbed land shall be restored to a condition capable of supporting the uses which it was capable of supporting prior to mining...which may include wildlife habitat; reclamation activities, particularly those relating to control of erosion and prevention of visual scarring, to the extent feasible, shall be conducted simultaneously with mining and in any case shall be initiated promptly after completion of abandonment of mining on those portions of the mine complex that will not be subject to further disturbance by the mining operation.

Inconsistency: The wisdom contained in the policy statement above is profound. Weeds will begin invading these disposal sites immediately upon disturbance. Preventive measures must be in place. Dredging and filling must be orchestrated in segments to allow restoration to begin on filled portions of the disposal sites concurrently with new dredging and filling. There must be time limits on how long a disturbed site will be allowed to lay fallow.

In summary, we hope information provided in this letter will help the Commission Staff with an informative review of the proposed permit and require inclusion of specific quantitative and/or qualitative terms and conditions (and identify the responsible agency) to help safeguard the California coastal natural resources.

Sincerely,


Jeff & Susan Kwasny

Enclosed: USFS Special Use Permit with Attachment A

Los Authorization ID: MRD1012P
Contact ID: CALTRANS
Expiration Date: 12/31/2009
Use Code: 341

FS-2700-4 (05/03)
OMB 0596-0082

U.S. DEPARTMENT OF AGRICULTURE

**Forest Service
SPECIAL USE PERMIT**

AUTHORITY:

ORGANIC ADMINISTRATION ACT June 4, 1897, PERMITS FOR PUBLIC BLDG AND OTHER PUBLIC WORKS September 3, 1954

CA. STATE, DEPT. OF TRANSPORT. (Caltrans) of C/O Gary Ruggerone, Senior Environmental Planner, 50 Higuera Street, , SAN LUIS OBISPO, CA 93401-5415 (hereinafter called the Holder) is hereby authorized to use or occupy National Forest System lands, to use subject to the conditions set out below, on the Los Padres National Forest.

This permit covers 7.20 acres, and/or N/A miles and is described as: Sec. 5, T. 24 S., R. 5 E., MT. DIABLO PRINCIPAL MERIDIAN (Willow Springs Site), Sec. 32, T. 23 S., R. 5 E., MT. DIABLO PRINCIPAL MERIDIAN, (Tree Bones Site) as shown on the location map attached to and made a part of this permit and is issued for the purpose of:

Issued for two debris disposal sites off Highway 1, Big Sur Coast.

The above described or defined area shall be referred to herein as the "permit area".

TERMS AND CONDITIONS

This permit issuance is contingent upon Caltrans getting all required permits from California Coastal Commission. If such document can not be obtained this permit will become void and will be cancelled.

Caltrans will implement all mitigation measures and terms and conditions in the disposal sites E.A. (June 2003, pages 13-16) and in appendices A and B.

Caltrans will implement all applicable Best management Practices in Attachment C.

It is understood by both USFS and Caltrans that upon completion of this project and before permit is determined expired by both parties that Caltrans will remove all pavement installed at Willow Springs and Tree Bones and hauled off National Forest System Lands for disposal. Roads will also be put back to its natural state following Best Management Practices in Attachment C.

I. AUTHORITY AND GENERAL TERMS OF THE PERMIT

A. Authority. This permit is issued pursuant to the authorities enumerated at Title 36, Code of Federal Regulations, Section 251 Subpart B, as amended. This permit, and the activities or use authorized, shall be subject to the terms and conditions of the Secretary's regulations and any subsequent amendment to them.

B. Authorized Officer. The authorized officer is the Forest Supervisor or a delegated subordinate officer.

C. License. This permit is a license for the use of federally owned land and does not grant any permanent, possessory interest in real property, nor shall this permit constitute a contract for purposes of the Contract Disputes Act of 1978 (41 U.S.C. 611). Loss of the privileges granted by this permit by revocation, termination, or suspension is not compensable to the holder.

D. Amendment. This permit may be amended in whole or in part by the Forest Service when, at the discretion of the authorized officer, such action is deemed necessary or desirable to incorporate new terms, conditions, and stipulations as may be required by law, regulation, land management plans, or other management decisions.

E. Existing Rights. This permit is subject to all valid rights and claims of third parties. The United States is not liable to the holder for the exercise of any such right or claim.

F. Nonexclusive Use and Public Access. Unless expressly provided for in additional terms, use of the permit area is not exclusive. The Forest Service reserves the right to use or allow others to use any part of the permit area, including roads, for any purpose, provided, such use does not materially interfere with the holder's authorized use. A final determination of conflicting uses is reserved to the Forest Service.

G. Forest Service Right of Entry and Inspection. The Forest Service has the right of unrestricted access of the permitted area or facility to ensure compliance with laws, regulations, and ordinances and the terms and conditions of this permit.

H. Assignability. This permit is not assignable or transferable. If the holder through death, voluntary sale or transfer, enforcement of contract, foreclosure, or other valid legal proceeding ceases to be the owner of the improvements, this permit shall terminate.

I. Permit Limitations. Nothing in this permit allows or implies permission to build or maintain any structure or facility, or to conduct any activity unless specifically provided for in this permit. Any use not specifically identified in this permit must be approved by the authorized officer in the form of a new permit or permit amendment.

II. TENURE AND ISSUANCE OF A NEW PERMIT

A. Expiration at the End of the Authorized Period. This permit will expire at midnight on 12/31/2009. Expiration shall occur by operation of law and shall not require notice, any decision document, or any environmental analysis or other documentation.

B. Minimum Use or Occupancy of the Permit Area. Use or occupancy of the permit area shall be exercised at least 365 days each year, unless otherwise authorized in writing under additional terms of this permit.

C. Notification to Authorized Officer. If the holder desires issuance of a new permit after expiration, the holder shall notify the authorized officer in writing not less than six (6) months prior to the expiration date of this permit.

D. Conditions for Issuance of a New Permit. At the expiration or termination of an existing permit, a new permit may be issued to the holder of the previous permit or to a new holder subject to the following conditions:

1. The authorized use is compatible with the land use allocation in the Forest Land and Resource Management Plan.
2. The permit area is being used for the purposes previously authorized.
3. The permit area is being operated and maintained in accordance with the provisions of the permit.
4. The holder has shown previous good faith compliance with the terms and conditions of all prior or other existing permits, and has not engaged in any activity or transaction contrary to Federal contracts, permits laws, or regulations.

E. Discretion of Forest Service. Notwithstanding any provisions of any prior or other permit, the authorized officer may prescribe new terms, conditions, and stipulations when a new permit is issued. The decision whether to issue a new permit to a holder or successor in interest is at the absolute discretion of the Forest Service.

F. Construction. Any construction authorized by this permit may commence upon obtaining all required permits and shall be completed by **December 31, 2009**. If construction is not completed within the prescribed time, this permit may be revoked or suspended.

III. RESPONSIBILITIES OF THE HOLDER

A. Compliance with Laws, Regulations, and other Legal Requirements. The holder shall comply with all applicable Federal, State, and local laws, regulations, and standards, including but not limited to, the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq., the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 et seq., and other relevant environmental laws, as well as public health and safety laws and other laws relating to the siting, construction, operation, and maintenance of any facility, improvement, or equipment on the property.

B. Plans. Plans for development, layout, construction, reconstruction, or alteration of improvements on the permit area, as well as revisions of such plans, must be prepared by a qualified individual acceptable to the authorized officer and shall be approved in writing prior to commencement of work. The holder may be required to furnish as-built plans, maps, or surveys, or other similar information, upon completion of construction.

C. Maintenance. The holder shall maintain the improvements and permit area to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the authorized officer and consistent with other provisions of this authorization. If requested, the holder shall comply with inspection requirements deemed appropriate by the authorized officer. (See Attachment C – Road B.M.P's)

D. Hazard Analysis. The holder has a continuing responsibility to identify all hazardous conditions on the permit area which would affect the improvements, resources, or pose a risk of injury to individuals. Any non-emergency actions to abate such hazards shall be performed after consultation with the authorized officer. In emergency situations, the holder shall notify the authorized officer of its actions as soon as possible, but not more than 48 hours, after such actions have been taken.

E. Change of Address. The holder shall immediately notify the authorized officer of a change in address.

F. Change in Ownership. This permit is not assignable and terminates upon change of ownership of the improvements or control of the business entity. The holder shall immediately notify the authorized officer when a change in ownership or control of business entity is pending. Notification by the present holder and potential owner shall be executed using Form SF-299 Application for Transportation and Utility Systems and Facilities of Federal Lands, or Form FS-2700-3a, Holder Initiated Revocation of Existing Authorization, Request for a Special Use Permit. Upon receipt of the proper documentation, the authorized officer may issue a permit to the party who acquires ownership of, or a controlling interest in, the improvements or business entity.

IV. LIABILITY

C. The holder has an affirmative duty to protect from damage the land, property, and interests of the United States.

The holder shall be strictly liable (liability without proof of negligence) to the United States for any injury, loss, or damage arising under this authorization. Such strict liability shall be in the amount of \$1 million unless the Forest Supervisor determines at the time of issuance of this authorization that a lesser amount of strict liability is appropriate based upon a risk assessment for the use authorized by this instrument. Liability for injury, loss, or damage to the United States in excess of the prescribed amount of strict liability shall be determined under the general law of negligence.

V. TERMINATION, REVOCATION, AND SUSPENSION

A. General. For purposes of this permit, "termination", "revocation", and "suspension" refer to the cessation of uses and privileges under the permit.

"Termination" refers to the cessation of the permit under its own terms without the necessity for any decision or action by the authorized officer. Termination occurs automatically when, by the terms of the permit, a fixed or agreed upon condition, event, or time occurs. For example, the permit terminates at expiration. Terminations are not appealable.

"Revocation" refers to an action by the authorized officer to end the permit because of noncompliance with any of the prescribed terms, or for reasons in the public interest. Revocations are appealable.

"Suspension" refers to a revocation which is temporary and the privileges may be restored upon the occurrence of prescribed actions or conditions. Suspensions are appealable.

B. Revocation or Suspension. The Forest Service may suspend or revoke this permit in whole or part for:

1. Noncompliance with Federal, State, or local laws and regulations.

2. Noncompliance with the terms and conditions of this permit.
3. Reasons in the public interest.
4. Abandonment or other failure of the holder to otherwise exercise the privileges granted.

C. Opportunity to Take Corrective Action. Prior to revocation or suspension for cause pursuant to Section V (B), the authorized officer shall give the holder written notice of the grounds for each action and a reasonable time, not to exceed 90 days, to complete the corrective action prescribed by the authorized officer.

D. Removal of Improvements. Prior to abandonment of the improvements or within a reasonable time following revocation or termination of this authorization, the holder shall prepare, for approval by the authorized officer, an abandonment plan for the permit area. The abandonment plan shall address removal of improvements and restoration of the permit area and prescribed time frames for these actions. If the holder fails to remove the improvements or restore the site within the prescribed time period, they become the property of the United States and may be sold, destroyed or otherwise disposed of without any liability to the United States. However, the holder shall remain liable for all cost associated with their removal, including costs of sale and impoundment, cleanup, and restoration of the site.

VI. OTHER PROVISIONS

A. Members of Congress. No Member of or Delegate to Congress or Resident Commissioner shall benefit from this permit either directly or indirectly, except when the authorized use provides a general benefit to a corporation.

B. Appeals and Remedies. Any discretionary decisions or determinations by the authorized officer are subject to the appeal regulations at 36 CFR 251, Subpart C, or revisions thereto.

C. Superior Clauses. In the event of any conflict between any of the preceding printed clauses or any provision thereof and any of the following clauses or any provision thereof, the preceding printed clauses shall control.

* See attachments A and B for terms and conditions and mitigation measures that will apply to both disposals sites.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0082.

This information is needed by the Forest Service to evaluate requests to use National Forest System lands and manage those lands to protect natural resources, administer the use, and ensure public health and safety. This information is required to obtain or retain a benefit. The authority for that requirement is provided by the Organic Act of 1897 and the Federal Land Policy and Management Act of 1976, which authorize the Secretary of Agriculture to promulgate rules and regulations for authorizing and managing National Forest System lands. These statutes, along with the Term Permit Act, National Forest Ski Area Permit Act, Granger-Thye Act, Mineral Leasing Act, Alaska Term Permit Act, Act of September 3, 1954, Wilderness Act, National Forest Roads and Trails Act, Act of November 16, 1973, Archaeological Resources Protection Act, and Alaska National Interest Lands Conservation Act, authorize the Secretary of Agriculture to issue authorizations for the use and occupancy of National Forest System lands. The Secretary of Agriculture's regulations at 36 CFR Part 251, Subpart B, establish procedures for issuing those authorizations.

The Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) govern the confidentiality to be provided for information received by the Forest Service. The public reporting burden for collection of information, if requested, is estimated to average 1 hour per response for annual financial information; average 1 hour per response to prepare or update operation and/or maintenance plan; average 1 hour per response for inspection reports; and an average of 1 hour for each request that may include such things as reports, logs, facility and user information, sublease information, and other similar miscellaneous information requests. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

This permit is accepted subject to the conditions set out above.

HOLDER NAME: CA. STATE, DEPT. OF TRANSPORT.

U.S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE

By: _____
(Holder Signature)

By: _____
(Authorized Officer Signature)

By: _____
(Holder Signature)

Title: _____
(Name and Title)

Date: _____

Date: _____

ATTACHMENT A
REASONABLE AND PRUDENT MEASURES
FISH AND WILDLIFE SERVICE
WILLOW SPRINGS DISPOSAL SITE

The following are measures that the Service believes are reasonable and prudent measures that are necessary and appropriate to minimize take of the Smith's blue butterfly:

1. Take of Smith's blue butterflies shall be minimized by placement of the removed seacliff buckwheat plants and associated soil and duff in a manner that maximizes the potential for any life stages of Smith's blue butterflies using the plants to survive and that minimizes effects to individuals occupying the adjacent habitat.
2. Take of Smith's blue butterflies shall be minimized by implementing well-defined operational procedures.
3. Take of Smith's blue butterflies shall be reduced by implementing measures that reduce the potential for introducing and spreading exotic, invasive plants in the project area and vicinity.
4. Take of Smith's blue butterflies shall be reduced by implementing measures to ensure the successful establishment of host plants in the project area.
5. Take of Smith's blue butterflies shall be minimized by allowing only qualified individuals to handle seacliff buckwheat plants and their associated soil and duff.

TERMS AND CONDITIONS

To be exempt from the prohibitions of section 9 of the Endangered Species Act, Caltrans must comply with the following terms and conditions, which implement the reasonable and prudent measures, described above and outline reporting and monitoring requirements. These terms and conditions are non-discretionary.

1. To implement reasonable and prudent measure 1, the following terms and conditions are established:
 - a. The seacliff buckwheat plants targeted for removal shall be placed with their associated soil and duff in a location where they will not be disturbed by activities associated with landslide material disposal.
 - b. The seacliff buckwheat plants shall be relocated in a manner that does not disturb the existing seacliff buckwheat plants including duff and roots. Workers shall avoid walking through the existing habitat to the extent possible.
 - c. The seacliff buckwheat plants targeted for removal shall be placed with their associated soil and duff adjacent to unaffected seacliff buckwheat plants. Soil and duff shall not be placed directly under existing seacliff buckwheat plants.
 - d. Removal and relocation of the identified seacliff buckwheat plants and collection and placement of duff shall be done under the supervision of an on-site, Service-approved biologist.
2. To implement reasonable and prudent measure 2, the following terms and conditions are established:
 - a. A Service-approved biologist shall conduct a brief training session for all project personnel before any construction activities begin within the project area. At a minimum, the training shall include:
 - Identification of the Smith's blue butterfly and its host plant, seacliff buckwheat.
 - The general provision and protections afforded by the Act.
 - The measures to be implemented during construction to protect the species.
 - A review of project boundaries.

- b. Prior to construction activities, the project boundaries shall be clearly delineated by flagging or other means to prevent inadvertent activity outside the project area.
 - c. The construction area should be wetted down as necessary to minimize dust. Wetting shall be applied in a manner that does not lead to erosion.
3. To implement reasonable and prudent measure 3, the following terms and conditions are established:
- a. To ensure that additional plant species are not introduced to the project area, the USFS or Caltrans shall ensure that equipment and vehicles entering the project area are not contaminated with weeds or other material that could support propagules, including seeds.
 - b. If fill or erosion control materials are required, the USFS or Caltrans shall ensure that only weed-free materials are used.
 - c. Ground disturbance shall be minimized to reduce opportunity for establishment of exotic invasive species.
 - d. Workers shall conduct any necessary vegetation clearing by hand.
 - e. Any native plant material other than the seacliff buckwheat plants that is removed from the project site and not contaminated with exotic, invasive plants shall be replaced over exposed soil on or adjacent to the site as mulch.
 - f. The USFS or Caltrans shall monitor the project site and immediate vicinity for exotic, invasive plants every six months during the first year and annually thereafter for a total of five years. Any exotic, invasive plant species present, including seeding, shall be removed by hand.
4. To implement reasonable and prudent measure 4, the following terms and conditions are established:
- a. The USFS or Caltrans shall monitor the condition of the seacliff buckwheat plants and the revegetated area every six months during the first year and annually thereafter for a total of five years.
 - b. The USFS or Caltrans shall hydroseed the project area with a mix containing seacliff buckwheat seed collected within three miles of the project area. Other species characteristic of the coastal scrub community at the project site shall be included in the seed mix.
5. To implement reasonable and prudent measure 5, the following terms and conditions are established:

Only qualified biologists, approved by the Service, shall handle any seacliff buckwheat plants and their associated duff that may contain eggs, larvae or pupae of the Smith's blue butterfly. The USFS or Caltrans shall provide the credentials of the person who will perform these duties to us for our review and approval at least 15 days prior to the onset of ground-disturbing activities.

REPORTING REQUIREMENTS

Caltrans shall provide a written annual report to the Service. The USFS or Caltrans shall submit the first report by **December 2005** and subsequent reports annually until **December 2009**. The reports shall document the amount of habitat and number of seacliff buckwheat plants actually disturbed; the results of revegetation with seacliff buckwheat and associated coastal scrub species; the results of exotic plant species monitoring and control program per term and condition 3 (f); problems encountered in implementing terms and conditions; results of any surveys conducted per our conservation recommendations and other local sightings records of the Smith's blue butterfly; and only other pertinent information. This attachment will assist the Service, USFS and Caltrans in evaluating future measures for the conservation of the Smith's blue butterfly.

DISPOSITION OF INJURED OR DEAD SPECIMENS

Upon locating dead Smith's blue butterflies, initial notification within three days of it's finding must be made in writing to the Service's Division of Law Enforcement (370 Amapola Avenue, Suite 114, Torrance, California 90501) and by telephone and writing to the Ventura Fish and Wildlife Office (2493 Portola Road, Suite B, Ventura, California 93003; (805) 644-1766). The report shall include the date, time and location of the specimen, a photograph, cause of death, if known, and any other pertinent information.

Care should be taken in handling the dead species to preserve biological material in the best possible state for later analysis. The USFS or Caltrans shall make arrangements regarding proper disposition of potential museum specimens with the California Academy of Sciences (Contact: Collections Manager, Golden Gate Park, San Francisco< California 94118; (415) 750-7177).

CONSERVATION RECOMMENDATIONS

Section 7 (a)(1) of the Act directs federal agencies to use their authorities to further the purposes of the Act by carrying out conservation program for the benefit of endangered and threatened species. Conservation recommendations are discretionary agency activities to minimize or avoid adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or to develop information. We recommend the following:

1. The USFS or Caltrans should conduct annual surveys to assess the status of the Smith's blue butterfly in the project area and it's vicinity.
2. The USFS or Caltrans should encourage further observations and documentation of Smith's blue butterflies in the project area and its vicinity by experts on the species and other knowledgeable individuals or institutions.

We request notification of the implementation of any conservation recommendations so we may be kept informed of actions minimizing or avoiding adverse effects or benefiting listed species or their habitats.

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CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863

W8a

Prepared August 8, 2005 (for August 10, 2005 hearing)

To: Coastal Commissioners and Interested Persons

From: Charles Lester, District Director
Jonathan Bishop, Coastal Program Analyst

Subject: STAFF REPORT ADDENDUM for W8a
Permit Amendment 3-01-015-A1 (Cal Poly Pier Flowing Seawater Facility)

The purpose of this addendum is to clarify Staff's recommended Special Condition 2 to provide reference to the most current Public Access Plan submitted by the applicant (7/20/05) and to allow for minor safety related improvements and repair and maintenance activities to occur on the Cal Poly pier without full implementation of Public Access Plan Action Item #6. Staff continues to recommend approval of the project subject to the following clarification:

1. Modify Special Condition 2 on pg. 4 of the staff report to include the following:

2. Final Public Access Plan and Improvements. PRIOR TO CONSTRUCTION OF THE NEW FLOWING SEAWATER FACILITY, the Permittee shall submit for Executive Director review and approval, a Final Public Access Plan that incorporates at a minimum the public access provisions contained in the access plan dated July 18 20, 2005 and attached to this report as Exhibit E, and that identifies the location, conceptual design, and materials of the proposed access improvements, including signage, parking and pedestrian facilities, benches, other necessary support facilities, etc.

a. WITHIN TWO YEARS OF COMMISSION APPROVAL OF THE NEW FLOWING SEAWATER FACILITY (8/10/07), all access improvements to the landside parcel (APN 076-174-010), as outlined in the Public Access Plan attached to this report as Exhibit E, and as may be further detailed in the Final Public Access Plan approved by the Executive Director pursuant to this condition, shall be implemented to the satisfaction of the Executive Director. Public access improvements to the pier identified in Action Plan Item #6 of Exhibit E shall be implemented to the satisfaction of the Executive Director prior to submittal of any proposal for new development on the pier that would require a coastal development permit, except for minor safety related improvements and repair and maintenance activities that do not change the type or intensity of use of the pier. Upon completion of either the landside or pier public access improvements, the Permittee shall submit a report to the Executive Director accompanied by photographic evidence showing that all public access improvements have been implemented and that the landside parcel and/or the pier accessway is open for public use as specified in the public access plan. If the landside or pier access improvements prove infeasible, as determined by the Executive Director, the Permittee shall submit an amended public access plan that (1) removes those access improvements identified in the access plan dated July 18 20, 2005 that are found to be infeasible; and (2) identifies equivalent substitute



California Coastal Commission

August 2005 Meeting in Costa Mesa

Staff: J. Bishop Approved by: *JMB 8/8/05*

3-01-015-A1 (Cal Poly Pier Flowing Seawater Facility) addendum 8.8.2005.doc

public access improvements with an implementation schedule, as an amendment to this permit, unless the Executive Director determines that an amendment is not necessary. No new development on the pier that requires a coastal development permit shall be applied for by California Polytechnic State University prior to either the implementation of the public access plan approved pursuant to this condition or approval of an updated access plan as an amendment to this permit. The required completion date of this condition may be extended by the Executive Director for up to one year for good cause.

